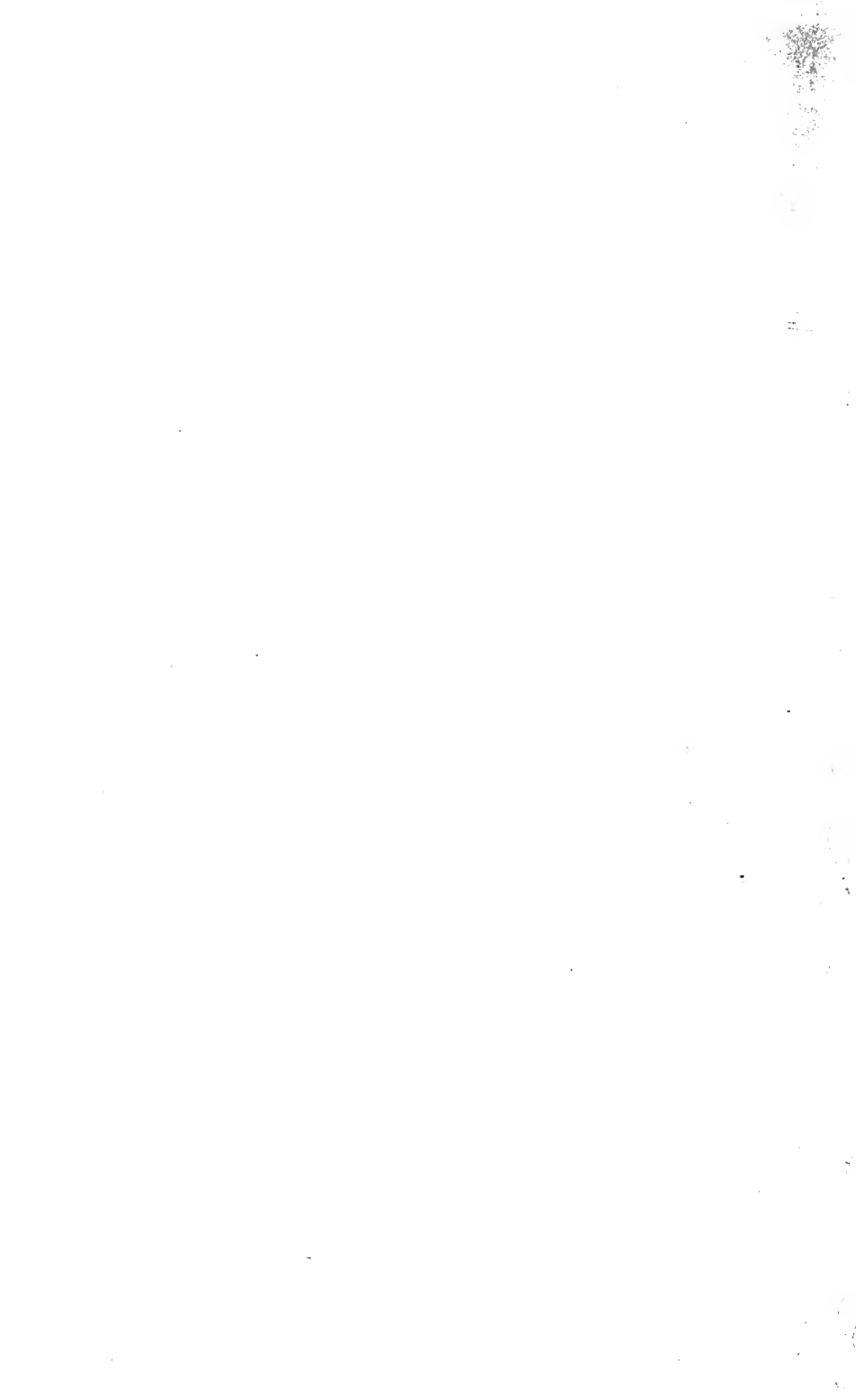


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AGRARIAN RELATIONS AND EARLY BRITISH RULE IN INDIA

AGRARIAN RELATIONS AND EARLY BRITISH RULE IN INDIA

A CASE STUDY OF CEDED AND CONQUERED
PROVINCES (UTTAR PRADESH)

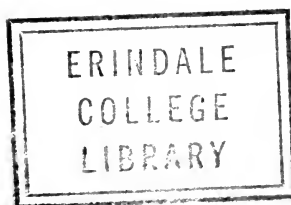
(1801-1833)

SULEKH CHANDRA GUPTA



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To
THE PEASANTS OF INDIA

Foreword

DR. S. C. GUPTA's book is a study, in depth, of a period of agrarian changes in the 'Ceded and Conquered Provinces' which today form the core of what is known as the State of Uttar Pradesh—a populous and sprawling territory which has been the scene of momentous historical events. The period chosen—1801-1833—has a great significance from the point of view of the history of Indian agrarian relations and of the vicissitudes of the British East India Company—a peculiar kind of oligarchy which defies very precise characterisation in view of the variety and complexity of problems, both economic and political, which it was called upon to handle through the development of certain broad forces of history having its centre of gravity outside India.

Adam Smith said that a trader was a bad sovereign or ruler and vice versa. His opinion was coloured by his view of the British East India Company. Dr. Gupta's study clearly demonstrates how the traders of the British East India Company took the business of government so seriously that they succeeded in building up a vast bureaucracy with its span of control ranging from the official on the spot through a long chain of intermediaries and ending with the Court of Directors and the Board of Control. Factories of the British East India Company had to submit a most detailed report on every commercial item to their principals in London when the Company was a purely trading organisation. When factories developed into an empire commercial items were replaced by masses of correspondence and documents, and, as Marx said, the Indian Government was transformed by the Board of Directors into 'one immense writing machine'. The output of this writing machine is fortunately available to historians. Dr. Gupta has reaped a good harvest, although his chronicle covers barely thirty years. His journey through the intricate maze of minutes and reports and despatches has been fruitful, and we have in this book a very exciting picture of how through the dialectical process of argument and

counter-argument as well as sometimes pure polemics, the administrators transformed the agrarian system in the Ceded and Conquered Provinces out of apparent ideological conviction which, however, turned out to be no more than mere rationalisation of what the total situation warranted. Whether ideas shaped policy or policy, dictated by the current economic and political situation, moulded the ideas, concepts and the premises of reasoning, is a question which may be left aside. But Dr. Gupta's thesis shows the two dimensions, not always clearly, but we do get a perspective which is not obscured by the mass of details pouring forth from the quill pens of the amazingly industrious bureaucrats of the East India Company.

One is tempted to inquire, as Dr. Gupta is, how far economic ideas shaped the agrarian policy in the particular region of his study. As he says, the agrarian system actually introduced in this region was akin neither to the Bengal landlord system (Permanent Settlement) nor to the *Ryotwari* system introduced in Madras and Bombay, but was a 'unique system'. A 'unique system' could be explained in three possible ways. A change of ideas regarding rent and property rights might have called for a more rational system than either the *Zamindari* or the *Ryotwari* system. One may argue that the 'unique system' avoided the known evils of these two systems which had been creating difficulties for the British rulers. It is also possible to argue that the compulsions of the agrarian situation in the Ceded and Conquered Provinces required a pragmatic solution of the agrarian problem, which also subserved the broad interests of the British rule in India as they unfolded themselves in the first thirty years of the last century.

Dr. Gupta gives primacy to the influence on policy of the changed ideas on rent and agrarian relations. The period covered by him was the period of the British Industrial Revolution, which, through the commercialisation of Indian agriculture and a deliberate policy of opening up India to free trade, required the objective conditions under which the potentially vast market in India could be created for the manufactures of Britain. This period was rich in new economic ideas which eventually were cast in set ideological moulds. Radical views on land rights and property in general were not unknown in Britain and in the continent of Europe. Godwin (1765-1836) in Britain and St. Simon (1765-1825) and Enfantin (1796-1864) were not inconsequential writers. But in the economic *milieu* of the

early nineteenth century the economists who might have exercised influence on policy-making in India were James Mill (1773-1836) John Stuart Mill (1806-1873), Ricardo, Malthus, and Richard Jones (1790-1855), who succeeded Malthus as Professor of Political Economy in British East India Company's Haileybury College which trained the Company's Indian administrators. Ricardo's rent theory had a great impact on contemporary thinking and policy. He proved that 'the interest of the landlord is always opposed to the interest of every other class in the community,' since he was the beneficiary of land-monopoly and scarcity of land. There was little surprise that J.S. Mill and other successors of Ricardo favoured plans for levying special taxes on rent. Malthus, who taught at the Haileybury College, refined Ricardo's theory by emphasising (1) that land yielded a surplus above the farmer's subsistence, (2) that supply of agricultural produce created its own demand (through increasing population) and (3) that land was a scarce instrument of production. James Mill contended that the middle class was the most important element in society and that anything that prejudiced its position would reduce social happiness. His son seized on the ideas of Ricardo and Malthus and maintained that the interest of the landlords was in conflict with that of other members of the society. It is likely that all these ideas appealed to the Company's administrators in India because the objective conditions in India favoured the reception of such ideas. The Bengal system was threatening to kill the goose that laid the golden egg. The impecunious administration needed revenue. British economic theory now sanctioned the appropriation of the 'surplus' by the State, and the British administrators in India could, therefore, plead for progressive raising of the land-tax. Landlordism under the Bengal system had not produced progressive agriculture; indeed it had been impoverishing the peasantry. Was not James Mill right in pleading for the stabilisation of the middle class ? Could not a class of solvent and enterprising peasant proprietors meet the requirements of both prosperous agriculture and rising land revenue ? At least where the old village communities formed the basis of the rural economy (as in the Ceded and Conquered Provinces) was it not inexpedient to break them up *directly*, specially in a period in which the British rulers were feeling their way in their new role as expansionist conquerors ?

British utilitarians and the 'Classical Economists' did, no doubt,

influence policy in an age of great debate, but it would have been far better if it had been influenced by the ideas of Richard Jones (1790-1855) who succeeded Malthus at the Haileybury College as Professor of Political Economy. Richard Jones was a pragmatic thinker who had the soundest ideas on the agrarian question. In the field of rent theory he was an opponent of Ricardo's. He dealt with rent in an empirical manner and was able to point out easily that the Ricardian assumption of free competition implied assuming away the problem of actual rents. He talked of *serf rents*, of *share rents* of France and Italy, of *cottier rents* of Ireland and of the *ryot rents* of India, while Ricardo talked of *farmer's rents* only. Jones was one author who emphasised the significance of institutional factors in the determination of rent. He was, therefore, able to argue, as against Ricardo, that 'the existence and progress of rents under the *ryot* system is in no degree dependent upon the existence of different qualities of soil, or different returns to the stock and labour employed in each'. '*Ryot* rents may increase', he said, 'from two causes, from an increase of the whole produce, effected by the greater skill, industry and efficiency of the tenant: or from an increase of the sovereign's proportion of the produce; the produce itself remaining the same, and the tenant's share becoming less.' Here we find a sensible understanding of the agrarian problem in India, notwithstanding the theories of Ricardo and Malthus, economists more influential than Richard Jones, whom the British administrators in India sometimes quoted in their notes, minutes and reports.

Was the 'unique system' evolved in the Ceded and Conquered Provinces designed to avoid the difficulties created by the Bengal system and the *Ryotwari* system? In Bengal there was the combination of the British landlord system, the middlemen system under which the landlord became the tax-gatherer, and the Asian system of making the State the real landlord. Drawbacks of several systems were thus combined. Similarly under the *Ryotwari* system an attempt was made to create peasant proprietors who were at the same time virtual serfs as well as share-croppers in relation to the State. While the *Ryot*, like the French peasant, was a victim of usury, he was, unlike a French peasant, deprived of a permanent title to land. As a share-cropper in relation to the State, the Indian *Ryot*, unlike the French peasant, received no advance of capital from the State. In the result, the peasant in India was pauperised as nowhere else in

Europe. I cannot imagine that the 'unique system' was evolved to remedy the evils of the two current systems.

Were there, then, certain compulsions in the contemporary objective situation, which explain the evolution of agrarian policy in the Ceded and Conquered Provinces? Dr. Gupta thinks that initially the British East India Company was mainly concerned with maximisation of land revenue and that after 1800 emphasis shifted to the task of creating an expanding market for British manufactures, which meant creating purchasing power in a predominantly rural society, which, again, meant increasing agricultural productivity and thus raising rural incomes as a whole. British rulers had an obvious stake in preventing progressive pauperisation in the rural areas even from the narrow point of view of maximising revenue. During the period 1801-1833, however, the attention of the Parliament was diverted from the India question to the anti-Jacobin war in 1813 and the Reforms Bill of 1832. The impact of economic compulsions in Britain on Indian agrarian and fiscal policy was not, therefore, so strong as it would have been otherwise. But there is no doubt that during this period the contradiction between the needs of revenue and the needs of creating an expanding Indian market for British manufactures appeared in an acute form as a major administrative problem. There were two compelling concrete factors in the situation. First, after the British East India Company was deprived by the Parliament of its trade monopoly in 1813, Britain's trade with India more than trebled within a short time. India's imports from Britain increased considerably while her exports declined, and the passive balance of trade was reflected in the fall in the rate of exchange from 2s/6d to 2s in 1823. The Indian market could not be flooded with British goods unless the productivity of agriculture increased sufficiently to replace the declining exports of Indian manufactures by increasing exports of agricultural raw materials. Secondly, after 1784 Indian finances got into difficulty due to mounting expenditure and decreasing revenue. Whatever the agrarian system, the needs of land revenue were as paramount as in the early years of the Company's rule.

Dr. Gupta's survey presents a very interesting cross-section of the texture of history which was being made in Northern India at the turn of the nineteenth century. The writer of the Foreword could only indicate above how the history presented in this book

could be treated as part of a seamless web which undoubtedly history is.

B. N. GANGULI

University of Delhi

May 27, 1963

Preface

THE PRESENT study makes an attempt to analyse the socio-economic changes in the agrarian structure of the Ceded and Conquered Provinces (at present a part of the State of Uttar Pradesh) during the first thirty-three years of British rule in the region. It was originally submitted and accepted as a thesis for the award of the Ph.D. degree on the author in the University of Delhi, and is published with their kind permission.

In the immediate pre-British period, there existed in the Ceded and Conquered Provinces a more or less self-sufficient, and stratified agrarian society in which the rights in land and the mutual economic relations of the various classes were inextricably linked with the powers and prerogatives of the Sovereign and his agents over the land and produce of the country, and customs of the village communities. The State and its functionaries or agents played a direct and powerful role and, the State was 'by far the most potent factor in the distribution of national income...and administration the most dominant fact in the economic life of the country'. Private property in land in the modern sense, free competition, market rents, market prices, or private investment of capital in agriculture played but a minor role in agricultural development. Free markets in land, labour or capital, as understood by economists today, scarcely existed.

The British administration was confronted not merely with the task of governing such a society but also of transforming it in view of the nature of its commercial and economic interests. And their pivotal position in the economic life of the country provided them ample scope for affecting it down to the deepest layers of rural organisation.

In the earliest years of their rule, the chief concern was the 'surplus revenue'—net of the expenses of collection and administration—for East India Company's trade. But as the Industrial Revolution in Britain developed, improving the productive powers

of the land and the people also became important, in order to develop India as a source of raw materials and as a market for British manufactures. More revenue on a long-term basis could also be raised only when the productivity of the land and the people would rise. But unless a special system of institutional control was evolved, the traditional structure of society had become too out-moded to serve British aims. How to evolve such a system of institutional control was the crucial problem before them.

Britain's own economic transformation occurred in a different institutional *milieu*, which, for that very reason, appeared to provide a model social organisation to solve the problems of agricultural development. Political Economy, which rationalised the basic features of that institutional structure, was built on the assumptions (explicit or implicit) of private property in land, (vested either in the 'landlord' or the 'peasant proprietor'), free competition between agricultural producers, existence of a class of wage workers, and of tenant farmers working with capital and employing wage workers in agriculture. The philosophy of *laissez-faire* and complete non-intervention by the State was the *modus operandi* of those institutional arrangements. It was a *milieu* fundamentally different from the social system prevalent in the Ceded and Conquered Provinces in which the State had so far played an active role. The British administration exerted the full weight of its power to mould the latter into the shape of the former, an attempt of gigantic dimensions. And how the difficult task was tackled forms the subject matter of this study.

My debt to those who have helped me in one way or another is heavy indeed. While I take this opportunity to thank all of them—too numerous to mention in a brief preface—I would like to acknowledge my deep sense of gratitude to Dr. B. N. Ganguli, Pro Vice-Chancellor, University of Delhi, formerly Director, Delhi School of Economics, who acted as my supervisor and kindly consented to write the Foreword. His guidance alone steered me through this study, and his patient and ungrudging help at all stages has been a source of encouragement and confidence. To Dr. V. K. R. V. Rao, formerly Director, Delhi School of Economics, I am too deeply obliged for words. He has inspired me, encouraged me and helped me in many ways to make this study possible.

Sincere thanks are due to Dr. T. Raychaudhuri, Reader in Economic History, Delhi School of Economics, Dr. Daniel Thorner,

Director of Studies, Ecole des Hautes Etudes, Paris and Dr. E. N. Komarov, Institute of Asia, Moscow, all of whom looked through the manuscript at various stages and made valuable suggestions. Thanks are also due to Prof. D. R. Gadgil and late Prof. D. P. Mukherjee for their comments on some papers pertaining to the theme of this study which proved of great help.

I would also like to acknowledge with thanks the help of Dr. Bisheshwar Prasad, late Dr. K. M. Ashraf, and Dr. P. Saran of the Department of History, University of Delhi, who gave advice on several matters and indicated some of the sources. To Dr. Irfan Habib, Reader in History, Aligarh University, Dr. W. C. Neale (whose study on U.P.'s land tenure problems I had obtained through Dr. Daniel Thorner), and Dr. R. N. Nagar, Reader in History, University of Lucknow, I am grateful for their kind permission to study their unpublished theses.

Mention must also be made of the help given by the members of staff in the record rooms and libraries who were always helpful despite the rigidity of rules—sometimes too severe for a research worker. Special mention must be made of Mr. Zahurul Hasan, then Revenue Secretary to the Government of U.P., who secured for me access to the Board of Revenue library at Allahabad, and Mr. Balwant Singh, P.C.S., through whose help I was able to utilise the books in the Collector's Library, Saharanpur.

For preparing the typescript, I am indebted to Mr. N. L. Sharma.

SULEKH CHANDRA GUPTA

Delhi/Oxford

June 27, 1963

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Introduction

IN THE present study, an attempt has been made to analyse some salient features in the development of agrarian relations in the Ceded and Conquered Provinces¹ during the period 1801 to 1833. By agrarian relations, we mean such economic relations amongst people in the rural society as determine the organisation of the factors of production or resources in agriculture as well as the pattern of distribution of its yield. As early as 1820, a Resolution of the then government referred to agrarian relations as consisting of the 'relative rights, interests and privileges of various classes in the agricultural community, owning, occupying, managing or cultivating the lands and sharing in its produce',² proceeding upwards from the persons who till the ground to the government itself. Agricultural production is carried on by the members of the agricultural community within the framework of these economic relations and the growth, decline or development of agriculture is influenced in an important manner by the nature of these various rights and privileges of the different classes who derive their sustenance from it.

During the period under study, the establishment of the British rule in the Ceded and Conquered Provinces in the years 1801 and 1803 respectively was an event of great significance, since it brought about certain basic changes in the economic relations amongst the various classes of the agricultural community. The agrarian relations as existing before the British rule were modified and adapted by

¹ The Ceded Provinces was the name given to the territories ceded by the Nawab Vazir of Oudh to the East India Company and Conquered Provinces to the territories annexed by the Company after conquest from Daulat Rao Sindhia. These two territories together constituted the Ceded and Conquered Provinces which were later also called as the 'Upper Provinces', the 'Western Provinces' and the 'North Western Provinces'. These territories were finally constituted as the 'Agra Province', which, after the annexation of Oudh, was merged into the United Provinces of Agra and Oudh. Now this whole province including Oudh is known as the state of 'Uttar Pradesh'.

² Government of Bengal Resolution dated 22 Dec., 1820, in *Selection of Papers from the Records at the East India House*, Vol. III, (London, 1826), p. 239.

the British authorities to serve the economic and political objectives of their rule. In the initial years, 'the principal concern of the East India Company, in dealing with the extensive territories that fell into its grasp appears to have been the realisation, by quick and expeditious methods, of as large revenues as possible'.¹ But, gradually, a change in the economic objectives of British rule in India took place in the wake of the Industrial Revolution in England. Instead of providing a large revenue surplus to the Company, which it used for its trade, 'the British power in India after 1800 came to be regarded as no more than an accessory, an instrument for ensuring the necessary conditions . . . by which the potentially vast Indian market could be conquered for British industry'.² In order that India should become a supplier of raw materials for British industries and a consumer of their manufactured goods, it was necessary to reorganise agriculture in such a manner as to facilitate its improvement, which depended largely on the relative rights, interests and privileges of the various classes in the agricultural community.

Even in the earlier years, before the need was felt for developing India as a source of raw materials and a market for British manufactured goods, the East India Company had sought to reorganise agriculture in its territories. They had established a framework of agrarian relations as laid down in the Bengal Permanent Settlement regulations, which was also designed to lead to an improvement of agriculture. But in Bengal, agricultural improvement was sought to be promoted through the landed aristocracy in whom the rights of private property in the soil were vested and on whom all the benefits of a Permanent Settlement of land revenue were conferred. With the turn of the century, in the wake of the French Revolution—a movement principally directed against the landed aristocracy, and with the rise of the Ricardian theory of Rent—a theory which emphasised the permanent cleavage of interests between the landlords and every other class of society, belief in the theory of agricultural development by the landed aristocracy was seriously undermined. On the contrary, the peasant-proprietors and the small owners of land came to be regarded as the best instruments of agricultural progress. And it was now believed that a settlement of land revenue with them would lead to a more rapid accumulation of

¹ *Report of the U.P. Zamindari Abolition Committee*, Vol. I, (Allahabad, 1948), p. 96.

² Eric Stokes, *The English Utilitarians and India*, (Oxford, 1959), p. xiii.

capital in agriculture and its consequent improvement. It was also realized, in the wake of Utilitarian influence on British policies towards India, particularly of James Mill, that agricultural rent, instead of being left for the enjoyment of the landed aristocracy, could be easily claimed by the State in India and would thus yield more revenue to the government.

These changes in opinions and policies coincided in time with the deliberations on the land revenue system and administration of the Ceded and Conquered Provinces, which were in progress. The existence of strong village communities in these territories naturally facilitated experimentation with the changed beliefs and ideas. The discovery of large agricultural fraternities, in which most members were both proprietors as well as cultivators of their own small pieces of land made it easier to depart radically from the premises and principles of the Bengal Permanent Settlement. The emergence of the *ryotwari* mode of revenue settlement in the Madras Presidency further accelerated the pace of this innovation. The complete obliteration of the landed aristocracy in the *ryotwar* arrangements for land revenue assessment and collection, and the large revenues collected through that method further induced the Company authorities to give up the Bengal system and evolve a new land system for the Ceded and Conquered Provinces. Ultimately, after long deliberation and discussion, a system was finally decided upon in 1833 which was neither akin to the Bengal Permanent Settlement nor to the Madras Ryotwar Settlement, but unique in itself.

The present study provides an analytical account of these various developments in the land system and revenue administration of the Ceded and Conquered Provinces during the first thirty-three years of the British rule and their impact on the relative rights, interests, and privileges of the various classes in the agricultural community.

An important place in this account has been assigned to the principles of political economy which had a decisive influence on policy during those years. The theoretical premises and assumptions behind the Bengal Permanent Settlement on which the early land policies of the British authorities in these territories were based and the abstract arguments derived from the science of political economy which led to a departure from them have been fully brought out.

There are several works¹ in which one can find a brief description of the early British land revenue administration in the Ceded and Conquered Provinces. These works generally deal either with the land system of the entire state of U.P. or of India as a whole. Consequently, a discussion of the land system in the Ceded and Conquered Provinces in them forms but a small part. Moreover, since most of these works had been written for certain practical purposes of administration, (for example, the works of Baden-Powell and Moreland), their authors have naturally devoted more attention to the specific problems and purposes which they had in view. Inevitably, the early years of the administration have been treated summarily, with hardly any analysis of the principles on which the early policies were based and the economic objectives which were sought to be achieved through them. The impact of these policies on the agrarian society, the intricate web of its internal economic relations, and the rights and privileges of various classes in the agricultural community as they stood on the eve of British rule are subjects which have seldom occupied the attention of research workers in this field so far.

In recent works on the subject, mostly written by historians and not by economists, the attempt has been mainly to trace the changes in the administrative system. The economic forces and principles which played a crucial role in those changes have not been brought into clear focus. The structure of agrarian relations in the pre-British era and its mutations under the impact of British policies thus remain to be analysed.

At least one author, however, has been fully aware of the crucial significance of the developments in the land and revenue policies in the Ceded and Conquered Provinces during the years 1807 to 1822. 'Indeed, the whole subject', wrote Baden-Powell, 'came to be looked

¹ See B. H. Baden-Powell, *The Land Systems of British India*, Vol. II, Part I (Oxford, 1892).

R. C. Dutt, *India Under the Early British Rule, 1757-1837* (London, 1950).

W. H. Moreland, *The Revenue Administration of the United Provinces*, (Allahabad, 1911).

S. N. A. Jaffri, *The History and Status of Landlords and Tenants in the United Provinces*, (Allahabad, 1931).

B. R. Misra, *Land Revenue Policy in the United Provinces*, (Banaras, 1942).

Report of the U.P. Zamindari Abolition Committee, Vol. I, (Allahabad, 1948).

W. C. Neale, *The Relationship of Land Tenure to the Economic Modernization of Uttar Pradesh*, unpublished thesis submitted to the London School of Economics, London, (June, 1953).

Dharam Bhanu, *History and Administration of the North-Western Provinces*, (Agra, 1956).

at from a new point of view between 1807 and 1820. . . . It is almost curious to note what a change came over the language of Minutes and Regulations during this period, which in fact originated a new departure in Revenue matters.¹ But even he could not go into this question in any great detail since his was a general survey covering the land systems of the entire country since the establishment of the British rule.

Professor Eric Stokes' recently published work, *The English Utilitarians and India*,² discussing, *inter alia*, the influence of English utilitarians on the land revenue policy in India, is the only publication which directly tackles the question at issue. But here too, the canvas covers the entire British territory in India and the discussion on the Ceded and Conquered Provinces is necessarily limited. Moreover, the impact of these policies and the changes in them on the pre-British land system and agrarian relations has not been examined in sufficient detail.

The present study is principally an effort to fill up this lacunae. The inter-actions of administrative endeavour and the 'new thought' in political economy have been examined here in the concrete context of land policy in a well-defined territory at a crucial period. This intensive, if necessarily limited survey, is meant to light up a significant cross-section of Indo-British agrarian history, its currents and cross-currents, the nature and motivation of state policy and the changing structure of agrarian relations under the impact thereof, —a cross-section, which reflects the nature and working of the forces active in the wider field of Indian economy. Much of the data presented here may be familiar to the students of economic or administrative history. Only here they have been linked up with facts less known in an effort to present a coherent picture of structural changes so far unmapped. This, to the writer of the present work, is the only justification for undertaking it.

The region under discussion in this work, which comprised the original nucleus of the modern State of Uttar Pradesh, has been selected because it was under a common political, judicial and revenue authority during the period in question.

The Ceded and Conquered Provinces were originally divided into

R. N. Nagar, *History of Land Revenue Administration in the Ceded and Conquered Provinces*, unpublished thesis submitted to the University of Lucknow, (1956).

¹ Baden-Powell, *op. cit.*, p. 17.

² Eric Stokes, *The English Utilitarians and India*, (Oxford, 1959).

twelve districts, viz., Allahabad, Cawnpore, Gorakhpur, Moradabad, Bareilly, Etawah and Farrukhabad comprising the Ceded Provinces,¹ and Agra, Aligarh, Northern Saharanpur, Southern Saharanpur and Bundelkhand comprising the Conquered Provinces. The districts bearing these names at present are much smaller in area since several new districts were carved out of them for various reasons. The coverage of the present study is the entire area that was included in these districts at the time of their cession and conquest.

The material for the study has been derived mainly from the contemporary official records of the Supreme Government at Calcutta and of the local government of North Western Provinces, some of which are available in print. The British Government in India, at all levels, was a 'government by record'. A large mass of information was required to be collected, abstracted and discussed by officers at various levels in order to frame laws and policies as well as to implement them. The authorities, especially during this period, insisted on receiving full and complete records of revenue settlement proceedings in respect of each tract, district or village as and when they were completed. These proceedings of the local governments were reviewed thoroughly in the light of instructions and orders sent from Home and deficiencies in their conception or execution were indicated for future guidance. Thus, a huge volume of data is available which was collected incidentally to meet the exigencies of administration and is preserved in the archives of the Central and State Governments. This mass of material has been exploited for the present work necessarily on a selective basis, because any exhaustive study of the same would involve the work of a life-time. All that is available in print, however, has been thoroughly analysed.

¹ Section II, Regulation II, 1803, in Richard Clarke, *Regulations of the Government of Fort William in Bengal*, (London, 1854), Vol. I, p. 592.

Land Revenue System and Administration on the Eve of British Rule

As is well known, the Ceded and Conquered Provinces were acquired by the British from the Nawab Vazir of Oudh and Daulat Rao Sindhia, both of whom had taken possession of these territories in the days of the decline of the Mughal empire. The revenue system and administration of these territories before the British rule had been developed by the Mughal rulers. In order, therefore, to analyse the relative rights of the State and various other classes of rural society in the period immediately preceding the British occupation, it is first necessary to examine briefly the basic principles of the revenue system in the Ceded and Conquered Provinces as they existed before the British took it over and the actual state in which they found it.

(i) *Principles of the Mughal Land Revenue System*

The fundamental principle of the Mughal land revenue system was that the Sovereign or the State was entitled to a certain proportion of the annual produce of every *bigha* of land, excepting in cases in which that power made a temporary, or permanent alienation of its right to such proportion of the produce, or agreed to receive instead of that proportion, a specific sum annually, or for a term of years, or in perpetuity. The British authorities, on their advent, not only recognised and accepted this principle but incorporated it as a cardinal principle of their own revenue system in the early years of their rule in the Ceded and Conquered Provinces. In all contemporary laws as well as documents, one finds a clear acceptance of this principle.¹

However, the precise share of the produce to be taken 'was not laid down by Islamic law', and the only limit recognised was the

¹ For example, see "Preamble to Regulation XXXI, 1803", in Richard Clarke, *The Regulations of the Government of Fort William in Bengal*. Vol. I, (London,

danger of checking production by over-assessment. The actual claim was decided by the ruler in accordance with local conditions, making allowance for variations in the cropping pattern and in the sources of irrigation.¹ But, at the same time, the need and the discretion of the Sovereign were a decisive factor in the determination of the precise share of the produce to be claimed as State revenue. That is why the share taken from the cultivator varied from reign to reign. While Akbar had laid down one-third of the average produce as the standard assessment,² Aurangzeb raised it to one-half.³ In later years of the Mughal rule, when discretion had yielded place to extortionate demand, even the maximum limit of one-half of the gross produce was violated through the imposition of cesses and *abwabs*.

The method of assessment also was left to be decided by the ruler under the Islamic law. For this reason, frequent changes were made in the methods of assessment and the machinery for revenue collection by different Sovereigns that succeeded one another. Nevertheless, towards the end of the eighteenth century, there prevailed a system of assessment and revenue collection which had been developed over long years and in which, at least theoretically, not many changes had been made by rulers after Akbar. We shall briefly describe this system later in this chapter.

It is evident that under a revenue system in which the State is entitled to claim a fairly large proportion of the gross produce according to its own need and discretion, the decline or improvement of cultivation would very much depend upon the taxation policy of the State. The share taken by the State would determine the share of gross produce that would remain for the cultivators for their own consumption and for further productive investment in land, or, in other words, for accumulation of capital in agriculture. If the share of the State was very large and accounted for the bulk of the gross produce, leaving what was sufficient merely for meeting the charges of cultivation and for the current consumption of the cultivators, there was bound to be economic stagnation. If it encroached even upon the minimum subsistence of the cultivator, areas would tend

1854), pp. 671-72; also see J. Thomason's "Remarks on the Land Revenue Administration of N.W.P." in *Directions for Revenue Officers in the N.W.P.*, (Calcutta, 1858), p. 1.

¹W. H. Moreland, *The Agrarian System of Moslem India*, (Cambridge, 1929) pp. 15-16.

²*Ibid.*, p. 83.

³*Ibid.*, p. 135.

to be depopulated and go out of cultivation.¹ But if the State revenue was moderate and left a little more than was necessary for current consumption and maintenance of cattle and other incidental expenses, agricultural development was bound to be stimulated.

It is also evident that under such a system, the value of the rights and privileges of all the classes connected with land or its produce would depend to a large extent upon the incidence of the State revenue. According to Moreland, 'the fact that in the Moghul period, the State disposed of from a third to a half of the gross produce of the land constituted it by far the most potent factor in the distribution of the national income; . . . so much so . . . that next only to the weather, the administration was the dominant fact in the economic life of the country.'²

As the State revenue consisted of a very large proportion of the total annual produce of agriculture, the State possessed ample means of creating several layers of agricultural classes and maintaining them in possession of their tenures, rights and privileges. The inherent power of the State to make a temporary or permanent alienation of its right to a share of the annual produce, or of agreeing to receive instead, out of that proportion, a specific sum annually, for a term of years or in perpetuity, constituted a very important factor in the determination of the rights and privileges of various classes as well as their incomes. The State also required a large number of officials and functionaries for the assessment and collection of such a large revenue. As is already well known, one of the methods of assessment and collection of revenue, was to assign a portion of State revenue to be collected and enjoyed by different ranks of people who were either the employees of the State in administration, armed forces, etc., or were its dependents. These assignments naturally varied according to the rank and status of persons in whom the State vested these rights. Even for persons not directly employed, the State created certain rights and privileges which consisted in the collection and enjoyment of the share of the gross produce of agriculture, which it could claim for itself.

However, the fact remained that the rights and privileges of these classes were ultimately based on the inherent prerogatives of

¹ '... there was always a limit... in the fact that cultivators abandoned their lands if the demands became too extortionate'. *Report of the U.P. Zamindari Abolition Committee*, p. 71.

² Moreland, *op. cit.*, p. xii.

the State itself, since they derived substance only from their claim in that portion of the gross produce of agriculture which legitimately belonged to the State. In fact, 'the State insisted upon a recognition of its right to confer or withdraw these rights and the successor had to go through a formal process of praying for receiving a *sanad*, (as an acknowledgement and documentary proof of the rights having been conferred upon him by the government). The Muslim rulers, generally, were always reluctant to recognise a hereditary right to an office and when they were strong enough, successfully opposed it.¹

This aspect of the Mughal land revenue system also was fully recognised and accepted by the British authorities. It was in pursuance of this principle that the British Government had ordered resumption of all the lands held revenue-free by various classes of people, unless sanctioned by a competent authority.² On the same basis, they had curtailed the privileges of a number of contumacious zamindars and *jagirdars* who had usurped the rights of the State for their own benefit. In all contemporary documents, this aspect of Mughal revenue system also appears to have been taken into account. This was regarded as the inherent prerogative of the British authorities which they claimed to have inherited from the preceding governments.

It would also stand to reason that since the land revenue of the State, determined according to the will of the Sovereign, constituted the first charge on the gross produce of agriculture, the portion of the produce left for the cultivators would be uncertain and indeterminate. If the burden of State revenue was oppressively heavy, the rights of the cultivators would lose all value. But if the State revenue was kept within reasonable limits, there could arise valuable rights in land which the cultivators as well could enjoy.

Thus, both in determining the right to that portion of the gross produce which was claimed as State revenue, and the value of the rights and privileges enjoyed by actual peasants, the State played a

¹ *Report of the U.P. Zamindari Abolition Committee*, p. 71; also see "Essay on the Tenure of Land in India" by George Campbell, in J. W. Probyn (ed) *Systems of Land Tenure in Various Countries*, (London, 1876), p. 128. Mr. Campbell writes:

... the Mahommedan system is quite non-hereditary—I may say anti-hereditary. The genius of their centralised government was entirely opposed to the feudal system; and wherever they have completely ruled, they have swept it away.²

² See Regulation XXXI, 1803 in Richard Clarke, *op. cit.*, p. 672.

very vital role through its policy of assessment and collection of revenue.

However, it may be pointed out that even though the value of the rights and privileges enjoyed by the cultivators on their land could vary with the variations in the incidence of State revenue, some sort of property right in land could arise inspite of the incidence of the State revenue being high. By property rights we only mean the privilege to enjoy the fruits and benefits of the land and not the right to lease out or alienate. Property rights, even of this limited character, generated a vested interest in particular parcels of land occupied by individual peasant families. Though there was no competition for land and plentiful wasteland was available for anyone to cultivate, yet a cultivator would naturally like to keep possession of an already cultivated piece of land so long as he might continue to derive his subsistence from it. Moreover, land is the centre of a network of legal and social relations. And vested interest in particular parcels of cultivated land may arise from the restraints imposed on the reclamation of wasteland because of these legal and social relations, quite apart from the natural difficulties that may limit such reclamation and make a cultivator prefer a cultivated field to a patch of wasteland. Considerations of group life and the institutions of family, succession, patrimony, village community, etc., may also create a sense of attachment of individual cultivators to their particular parcels of land.

Another characteristic feature of the land revenue administration under such a system would be that an elaborate machinery for assessment and collection of State revenue would have to be set up. In view of the vast extent of territory of the Mughal empire, a wide heterogeneity of the climate, soil and the nature of crops grown in different parts of the country, the extreme variability of the area under cultivation from year to year due to ravages caused by the shifting rivers, failure of rains, or occurrence of floods, it would be obvious that the Mughal rulers had to devise a system of revenue administration by means of which they could assess and collect the State revenue from the produce of the soil on the basis of real resources of the various classes in the agricultural community as ascertained annually or from time to time.¹

¹ 'The principles of Mogul taxation . . . were calculated to give the Sovereign a proportion of advantages arising from extended cultivation and increased population . . . whatever the justice or policy of the principle might be, the practice

DISTINCTION BETWEEN THE MUGHAL AND BRITISH
REVENUE SYSTEM

Despite the fact that the fundamental principle of the Mughal revenue system was accepted by the British authorities and incorporated into their own system, it is important to emphasise that the State revenue under the Mughal system was determined as a share of the gross produce raised from any piece of land and not on the basis of net produce or net income drawn from land. As Moreland clearly tells us, the word 'produce' was used in its natural meaning as the gross yield of the land without deducting anything on account of cost of production.¹ He writes, 'I cannot trace any suggestion of assessing revenue formally on the net income further back than the period of British rule.'² Thus, State revenue in pre-British India could not be characterised either as 'rent' or as 'net produce' as defined in Classical Political Economy. Rent, according to Malthus, meant 'that portion of the value of whole produce which remains to the owner of the land, after all the outgoings belonging to its cultivation, of whatever kind, have been paid, including the profits of the capital employed, estimated according to the usual and ordinary profits of agricultural stock at the time being.'³ Thus, the concept of 'rent' or 'net produce' could not be suitably applied to the State revenues in India since it was assessed without any regard for the costs of cultivation or the profits of the farmer.

Still, one finds Moreland himself putting forward the view that according to the Islamic law, the ruler was 'free to demand the full economic rent, or Producer's Surplus, whatever it might be, provided always that such a demand did not cause the peasants to abscond, or reduce the area of their cultivation.'⁴ This view of Moreland has been uncritically accepted by most writers on the subject which

in detail has this merit that it was founded upon a knowledge of the real and existing resources. In conformity with these principles, inferior officers were stationed throughout the country, to note and register all transactions relating to the soil, its rents and its produce; every augmentation of cultivation was required to be recorded, as well as every diminution in its quantity.' John Shore's Minute dated 18 June, 1789, paras. 30-31 in the *Fifth Report from the Select Committee of the House of Commons on the Affairs of the East India Company*, edited by W. K. Firminger, Vol. II, (Calcutta, 1918), p. 8.

¹ Moreland, *op. cit.*, p. 3.

² *Ibid.*, p. 3.

³ T. R. Malthus, *Inquiry into the Nature and Progress of Rent*, (London, 1815), pp. 1-2.

⁴ Moreland, *op. cit.*, p. 3.

makes it difficult to draw the distinction between the principles of taxation prevalent under the Mughal rule and those later adopted by the British authorities.

But such a distinction was very clearly drawn by Charles Metcalfe in one of his Minutes in the following words:

.... the Board define the land revenue of the Indian governments as consisting of a portion of existing land rent. It is not quite clear in this definition what is meant to be described as land rent. It may mean a rent received from the cultivator by an intermediate landlord; or it may mean that portion of the produce which is termed rent, in the technical division of the produce to parts, under the terms wages of labour, profits of stock, and rent. In either case, it would, I conceive, be more correct to define the land revenue of Indian governments as consisting of a portion of the gross produce, for such is the fact. Go into any village and inquire what is the revenue or right of government, you will be told that it is a half¹

For analysing the changes brought about with the establishment of the British rule in contrast to the situation which obtained under the Mughal rulers, it is very important to keep this distinction in mind. The British land revenue system was considerably influenced by the Theory of Rent as we shall see in the subsequent chapters. And the British officials, by characterising the State revenue as 'rent', sought to analyse the agrarian relations in the Ceded and Conquered Provinces in conformity with the principles underlying the Theory of Rent, and in accordance with the spirit of the property institutions which formed the basis of this theory. This led to significant changes in the whole pattern of agrarian relations in the wake of the British rule to which we shall turn our attention in later chapters.

(ii) *Methods of Assessment of Land Revenue*²

The land revenue administration in the Ceded and Conquered Provinces affected the agrarian relations of the various classes in the agricultural community in a vital manner.

The two most important aspects of land revenue administration

¹ *Selections from the Papers of Lord Metcalfe*, edited by J. W. Kaye, (London, 1855), p. 249.

² This section and the next section on Machinery of Revenue Collection are based on Dr. Irfan M. Habib's unpublished thesis on *The Agrarian System of*

are the methods of assessment of land revenue and the machinery of collection. The rights and privileges of the agricultural classes which were connected with the assessment and collection of revenue or with the cultivation of land can be best explained only after we have examined these two aspects.

Under the Mughal rulers, there were mainly two methods of assessment. Moreland has described them as Estimation and Measurement.¹ A third method, viz., revenue farming, called the Contract method by Moreland, also came to prevail in the later years of Mughal rule.

In Estimation, the amount of the State's share was determined by an inspection of the growing crop and the peasant's liability was fixed before the produce was ripe. The estimation of the growing crop and a rough measurement of the area under crop by mere observation or by some other method were essential to this method of revenue assessment. Then, an estimated rate of yield per unit of area on the basis of the actual condition of the produce on different fields was applied and an estimate of the gross produce formed. From this estimate, the share of the peasantry was deducted and the remaining quantity representing the State's share was commuted into cash at stated prices. This method of assessment was called the *Kankut* method of assessment.²

The other method of assessment, called Measurement by Moreland, developed as the *zabti* system in Akbari reign. Under the *zabti* system, the land under cultivation of different crops was actually measured for purposes of assessment. To it was then applied a schedule of rates (i.e., *zabt*) prepared on the basis of average yield per unit of land for each crop. Concessions were made to the assessee on the basis of the actual state of productivity of his land at any given time. One-third of the total produce thus assessed was regarded as the share of the State and this share was commuted into cash on the basis of average prices for different crops prevalent in the area. The total amount of revenue thus estimated on the basis of average yields and average prices provided the basis for the formation of average revenue rates per unit of area for different qualities of soil and for different crops.

Mughal India (1557-1707) submitted to the University of Oxford and on Moreland's *The Agrarian System of Moslem India*, already referred to earlier.

¹ Moreland, *op. cit.*, p. 7.

² Irfan Habib, *op. cit.*; also see P. Saran, *Provincial Government Under the Mughals*, (Allahabad, 1941), p. 301, fn.

The revenue rates per unit of area were fixed for a number of years on the basis of average yields. Though these were subject to periodical revision according to the discretion of the ruling power, yet in actual practice these were not revised frequently. The confusion and hardship experienced in the annual commutation of revenue rates into cash on the basis of current yields and current prices were thus removed. Consequently, the annual fluctuations of the gross produce did not strictly affect the amount of revenue assessed from year to year. Normally, all losses of produce were borne by the peasants who were also the beneficiaries of any increase in production beyond the average rates.¹

No crop-rates were prepared for such crops as indigo, poppy, *pan* (betel leaf), turmeric, hemp, or sugar cane, etc., for which revenue rates were directly calculated in terms of cash by converting the average production of food crops on these lands into their average money value. Thus, all the benefits of an increase in the value of crops through cultivation of these commercial crops were also left to be enjoyed by the peasants. This was indeed a method by which improvement of cultivation was encouraged.²

Thus, under the Mughal rulers, the State made an attempt to assess the land revenue in accordance with the nature and fertility of the soil, the nature of crops grown, and the average prices prevalent in any locality over a number of years and took measures to collect these data on its own initiative.³ But at the same time, in the assessment of revenue, the State also took into account the customs and usages of the village communities in which the peasants were organised (see Chapter III). The State showed deference to the rules and regulations of the village communities in which the different classes of the rural society enjoyed differential privileges in matters of revenue assessment and rights to land.⁴ The State also did not

¹ *Ibid.*; also see R. M. Bird's Minute dated 25 Sept., 1832 in *Selections from the Revenue Records of the North Western Provinces*, (1822-33), (Allahabad, 1872), p. 430.

² *Ibid.*

³ 'The (native) Government limited its demand to a specific proportion of the produce of the soil, either taken in kind or estimated in money and varying according to the nature of the land, and of the crop and other varying circumstances.' Minute by James Stuart, dated 18 Dec., 1820, in *Selection of Papers from the Records of the East India House*, Vol. III, (London, 1826), p. 215.

⁴ Holt Mackenzie's Memorandum dated 1 July, 1819, para. 318 in *Selections from the Revenue Records of the North Western Provinces 1818-1820*, (Calcutta, 1866), pp. 75-76 which runs as follows: '... a deference for caste and for long existing institutions or long-established usage, appears obviously to have introduced considerable variety in the rates of the Government rent, beyond what

interfere with the established customary practices and usages regarding the occupation, cultivation, inheritance and transfer of the land in possession of the village communities except to the extent that they tended to prejudice the payment or collection of State revenue.¹ So long as the payment of State revenue was ensured, the members of the village communities were left free to regulate their own affairs according to their own traditions and customs.² A great advantage of this system was that it helped to freeze the *status quo* and maintain the agricultural classes in the village community in possession of their tenures, rights and privileges without any State interference.

This indulgence shown by the State to the institutions of the village community can be explained by the circumstances of the economic situation. Land resources were proportionably greater than the labour required to exploit them. Competition for land did not exist in the villages.³ Extensive waste land was available which could be adequately cultivated only through the efforts of peasants organised in village communities. Even in existing villages cultivation could expand and improve only within the framework of the customary usages and practices which the village communities had observed over long years in the regulation of their internal affairs. The State, therefore, had to leave the process of adjustment of labour resources to the land cultivated to take its own course, and tried to promote it only indirectly by means of a careful taxation policy.

Thus, while claiming a share of the gross produce from every *bigha* of cultivated land, the pre-British Governments sought to apply this principle in a manner which might work to the mutual

the mere situation and circumstances of the land and the quality, quantity, or value of its produce would account for.'

'The caste and pursuasion of the proprietors are also matters attended to in fixing the assessment.' Thomas Fortescue, "Report on the Revenue System of the Delhi Territory", dated 28 April, 1820 in *Records of the Delhi Residency and Agency*. (Lahore, 1911), p. 37.

¹ See *Note on Land Transfer and Agricultural Indebtedness in India*, (Place and Date of Publication not given), published by Government of India, Chapter on 'Land Transfer in the period preceding British rule'.

² '... there never was any system of interference with the immediate possession of the soil; no letting it by competition to the highest bidder, or anything of that kind. Those in possession of the village area were left in possession, and were allowed to manage their own affairs, subject only to the State right to receive its dues...'; *Systems of Land Tenure in Various Countries*, edited by J. W. Probyn, (London, 1876), p. 131.

³ Moreland, *op. cit.*, p. xii; also see James Mill, *History of British India*, Vol. I, (London, 1840), Chapter on Taxes.

benefit of the State and the peasants. They framed comprehensive rules and regulations and entrusted the revenue administration to various ranks of officials. These rules were fully observed when the central Mughal administration was strong enough to execute the will of the Sovereign. We learn from Moreland¹ and Dr. Irfan Habib² that, in the reign of Akbar, the permanent schedules of revenue-rates had been successfully applied over a large part of the territory of the Ceded and Conquered Provinces.³ Permanent crop-rates and revenue-rates had been fixed for various localities according to which revenue was assessed. Dr. Habib adds that 'this system seems to have continued unaltered in the seventeenth century'.⁴

However, in later years, particularly during the second half of the eighteenth century, the use of these rates in the process of assessment was seriously undermined mainly due to the method of assessment by the contract method which had grown considerably and become widespread. According to this system, the State contracted with certain individuals, its own officials or others, to receive a stipulated sum of money annually as its revenue from an area, on the basis of past collections and its own requirements, irrespective of the actual produce or collections made by persons who entered into such contracts. This system was known as revenue farming and its prevalence over large areas is brought out fully in all contemporary writings and documents.

The prevalence of this system of assessment is intimately connected with the machinery of revenue collection which will now be described.

(iii) Machinery of Revenue Collection

The machinery of revenue collection under the Mughals consisted of several layers of intermediaries, bearing different names, ranks and designations.⁵ The imperial territory was divided into two

¹ Moreland, *op. cit.*, p. 92.

² Irfan Habib, *op. cit.*

³ Also see S. N. A. Jaffri, *The History and Status of Landlords and Tenants in the United Provinces (India)*, (Allahabad, 1931), pp. 67-68.

⁴ Irfan Habib, *op. cit.*

⁵ The names and designations borne by the intermediaries were far too many. In the records of the contemporary period, one finds the words *rajah*, *taluqdar*, *zamindar*, *muqaddam*, *jagirdar*, *chaudhri*, *qanungo*, etc. The meanings of most of these appellations will become clear in the course of this and the next chapter.

distinct parts, viz., *khalisa* and *jagir*.¹ In *khalisa*, the assessment and collection of revenue was made directly by government officers while lands in *jagir* were assigned to persons designated as *jagirdars*. The holders of these *jagirs* were usually *mansabdars*, holding definite ranks bestowed on them by the Emperor. They received their emoluments either in cash from the government treasury or, more commonly, they were assigned particular areas as *jagirs*. The assignee was entitled to collect the entire revenue due to the State, and though what was collected was principally land revenue, it also included various cesses and petty taxes. The *jagirs* were constantly transferred after short periods so that a particular assignment was seldom held by the same person for more than three or four years.²

Since a *jagir* was usually assigned in lieu of pay, it was necessary to determine in each case an area that would yield an amount of revenue equivalent to the sanctioned pay. A standing assessment or *jama* was, therefore, prepared for each unit of territory, the village, and more especially the *pargana* or *mahal*. This *jama* was used for purposes of assignment. In normal circumstances, the imperial administration left the *jagirdars* to bear the risk of fluctuations in revenue collections and neither re-imbursed them for any loss nor recovered any excess receipts. But in certain cases, a reduction was sanctioned in cases of complaints that the statements of the *jama* used for assignment had been highly inflated. Similarly, if actual receipts were discovered to be substantially in excess of the assessment for which the *jagir* was sanctioned, the excess amount could be recovered from the assignee and added to the claims against him. The assignments were often subject to temporary resumption for the recovery of the claim of the exchequer against the assignee, which could arise from the failure of the *jagirdars* in discharging their obligations either in respect of payments of revenue arrears, or in respect of excess of revenue receipts due to be paid to the treasury or in respect of failure to supply the services required of them.³

As against *jagirs*, *khalisa* consisted of lands held by the imperial administration. There were constant transfers from, or assignments

¹ Irfan Habib, *op. cit.*; also see John Shore's Minute dated 18 June, 1789, para. 12, in the Fifth Report from the Select Committee of the House of Commons on the Affairs of the East India Company, edited by W. K. Firminger, (Calcutta, 1918), Vol. II, p. 4.

² Irfan Habib, *op. cit.*

³ *Ibid.*

to the *khalisa* of various *mahals*.¹ Land once held in *jagir* could be transferred to *khalisa* on resumption of the assignment, and land held in *khalisa* could be assigned in *jagir*, thus going out of the direct imperial administration. The extent of *khalisa*, therefore, varied from time to time. Even during Akbar's time (thirty-first year of reign) about three-fourths of the land in the provinces of Delhi, Awadh, and Allahabad was held in *jagirs*. But later, with the weakening of the Mughal imperial administration, the extent of lands under *jagirs* increased considerably, and lands under *khalisa* declined.²

In these two distinct divisions of the imperial territory, the administrative arrangements were somewhat different. In *jagir* lands, the tasks of the administration were firstly, to ensure imperial control and to secure conformity with, and observance of, imperial regulations in matters of assessment and collection of revenue. In Akbar's reign, the *jagirdars* were obliged to collect the revenue due from lands in their *jagirs*, as on *khalisa* lands, in accordance with the annual cash rates sanctioned by the government. Anything extorted in excess of these was to be recovered and fines imposed. How far this salutary check was practically effective is, however, not certain. Secondly, in view of the transferability of *jagir* lands, after short periods, some arrangement for ensuring continuity in local records and revenue practices had to be provided so that the new assignees might be able to assess and collect the revenue on the basis of past records and practices in any new area where they might hold their fresh assignments. This was also necessary for *khalisa* lands since these could also be assigned in *jagir* at any time.³

There were thus three distinct cadres in the revenue administration of the Mughals, viz., (1) full-fledged officials of the imperial administration, who were used both to assist and control the assignees, (2) the officials and agents of the assignees, and (3) the permanent local officials, partly hereditary and partly subject to imperial authority and unaffected by transfers of assignees.

FULL-FLEDGED OFFICIALS OF IMPERIAL ADMINISTRATION

As regards administrative officials, Akbar had effected a major reorganisation in the nineteenth year of his reign which continued

¹ *Ibid.*; also Moreland, *op. cit.*, p. 29 fn.

² Irfan Habib, *op. cit.*

³ *Ibid.*

more or less unaltered until the period when the British took over the Ceded and Conquered Provinces under their rule. By bringing together all the lands of the empire in *khalisa* (except the provinces of Bengal, Bihar and Gujerat), he had divided the territory into districts to each of which was appointed an *amil* or *amalguzar*. When the lands were again assigned in *jagirs*, after having remained under the direct imperial administration for a short period, the persons in charge of assessment and collection on behalf of the assignees were also designated as *amils* or *amalguzars*.

Besides the *amil*, there was a subordinate official, known as *amin* who used to carry out the survey and measurement of lands for purposes of assessment. The *amils* also employed troops for enforcing revenue collection.¹

Every official of the imperial administration was obliged to give a pledge about the amount he would assess or collect, and there was to be close supervision on the amounts assessed and collected by them. Strictness was observed if they failed to assess and collect the amount they had undertaken to collect. *Amils* were held answerable for any lapse in collection. They were allowed a certain percentage on their total receipts. This rate varied according to localities. Towards the end of the eighteenth and the beginning of the nineteenth century, it was generally 8 per cent in the territories under study. It was probably the prevalence of this rate which explains the payment in the early years of the British rule, of 10 per cent of revenue collected as commission to the *tehsildars*,² whom the British authorities had substituted for Mughal *amils*. The accounts of collections made by *amils* were audited in many cases with the help of papers and records maintained by permanent local officials.

Two other direct officials of the administration, posted in each *parganah* independently of the *amils*, were the treasurer (*khazanadar*) and the accountant (*karkun*). Their functions were mainly to manage the treasury and maintain the revenue accounts respectively.³

OFFICIALS AND AGENTS OF THE JAGIRDARS

The administrative arrangements on large *jagirs* held by the princes of the royal blood were more or less similar as on *khalisa*.

¹ *Ibid.*

² Henry Welleseley's *Correspondence, (1801-1803)*, edited by G. N. Saletore, Allahabad), p. 79.

³ Irfan Habib, *op. cit.*

But in ordinary *jagirs*, where the *jagirdars* could not afford to maintain all the officers in a revenue unit, the principal officer employed on their behalf was the *amil* who was required to perform all the duties of the *amin*, the treasurer and even the accountant. The *jagirdars*, before employing an *amil*, took a certain sum of money as advance and any other person wishing to get employed as the *amil* could do so only by offering a bigger amount as advance. But at the same time, it was difficult for the *jagirdars* to keep the *amils* in check and prevent embezzlement of revenue or collection of extra cesses from the peasants. Many of the assignees, therefore, preferred to farm out their assignments. They liked to enter into contracts with the *amils* to receive a stipulated sum as revenue, leaving them to collect whatever amount they could from the *jagir*. Thus, the system of assignments was pregnant with the possibilities of developing into a system of revenue farming on a large scale. However, during the period when the imperial administration was sufficiently powerful, the system of farming was kept in check because the Mughal Court disapproved of it.¹ But after the weakening of the imperial administration, revenue farming spread extensively as a method of revenue assessment and collection in almost every district of the Ceded and Conquered Provinces, as we shall see later in this chapter.

PERMANENT LOCAL OFFICIALS

In order to check collusion between the officials and local persons holding interests in land, the imperial administration as well as the *jagirdars* preferred not to employ local persons as *amils*. But with a view to assisting them in assessment and collection of revenue, two permanent local officials existed in every *parganah* who were designated as the *qanungo* and the *chaudhri*.²

The *qanungo's* office was usually hereditary but an imperial *sanad* was necessary for its recognition. A *qanungo* could also be removed from office by an imperial order, for malpractices, for dereliction of duty or in order simply to reduce their number. The *qanungo* was the permanent repository of information concerning the revenue receipts, area statistics, local revenue rates and customs and practices of the *parganah*. He provided the imperial administration with the revenue and area figures which were used for determining the

¹ *Ibid.*

² *Ibid.*

standard assessments for purposes of *jagir* assessments. His most important function was to place his records, the accounts of previous assessments and personal knowledge, etc., at the disposal of the officials of the imperial administration or the agents of the *jagirdars* sent into the *parganah* for the assessment and collection of revenue. The *amil* also had to deposit a copy of accounts of his collections, arrears and expenses with the *qanungo* who was required to check them with the accounts of the peasants to see if the *amil* had correctly entered all the payments made to him. The *qanungo* was also to see that the imperial regulations were faithfully followed by the officials of the administration or by the assignee's agents and was to act as a 'friend of the peasants'.¹

The *qanungo*, being the main source of information for the agents of the *jagirdars* for assessment and collection of revenue, could greatly exploit his position for his own gain. In collusion with the *amil*, he could misrepresent the accounts and share the gains with him. If the *amil* did not agree, the *qanungo* could influence the peasants not to pay the revenue demanded and enrich himself by acting as a mediator. He could also recommend heavy reductions in revenue in collusion with the cultivators and against the *amil*.²

The *qanungo* was usually paid an allowance of one per cent on the revenue, though he was sometimes given small areas of revenue-free lands in reimbursement of his services.

The *chaudhri* was generally a leading and powerful zamindar of the *parganah*. The office was generally a hereditary one, but subject to imperial sanction. While the *qanungo*'s task was chiefly concerned with the preparation of revenue assessment, the *chaudhri*'s task was to help in its collection. The *chaudhri* stood as a surety for the small zamindars in his area for the payment of revenue. The collections were generally made by the *chaudhri* from the *muqaddams* (village headmen described in the next chapter) and passed on to the *amils*. In addition, he also undertook the distribution and repayment of *taccavi* loans on his own surety. He was also required to keep the *qanungo* in check and to see that the accurate papers and records of local practices were sent regularly to the court under his signature.³

The *chaudhri* was also allowed a small percentage of the revenue collected together with some lands held revenue-free. When he stood

¹ *Ibid.*

² *Ibid.*

³ *Ibid.*

as surety for zamindars, he took a small commission of 5 per cent from them in lieu of his service.

The power to remove the *qanungo* and the *chaudhri* in a *parganah* was an important instrument in the hands of the imperial administration with which to exercise control over the administration of the assignees outside the *khalisa* lands. Of course, the central administration also exercised its control on the *jagirdars* through several other officials. But such control could be efficiently organised only if the central power was strong enough to punish the *jagirdars* and assert its authority over them.¹

Thus, the agency of revenue collection under the Mughal revenue system consisted of a heterogeneous class of persons,² which included direct officials of the imperial administration, like the provincial governors, *amils*, or the *qanungos*, *jagirdars* (revenue-assignees) and their officials and agents, and representatives of the peasants like the village headmen (*muqaddams*) and the *chaudhris*. There were also several other classes of persons who were more or less in a similar situation as the revenue assignees. Firstly, there were the chiefs and *rajahs* of former kingdoms and principalities who had been subdued by the Mughal emperors, and had been left in possession of their previous jurisdiction subject to the payment of tribute to the Mughal emperor. 'As time went on, the chiefs came to be designated collectively as zamindars.'³ Each chief decided for himself in what way he should collect the State's share from his peasants, and he had his own hierarchy of officials and agents for collection. Secondly, there were grantees to whom a specified area was granted by way of pensions for past service, rewards for good conduct, for literary and artistic achievement, for maintenance of religious and charitable endowments, etc. The revenue collected by the grantees was not paid to the State but was enjoyed by themselves.

An important aspect of these various classes of intermediaries is their relation, as a class, with the State⁴ or the imperial administration and their mutual relations with one another. Keeping in view the arbitrary and discretionary powers of the State and the central administration to determine the share of gross produce to be claimed

¹ *Ibid.*

² Moreland, *op. cit.*, pp. 8-10.

³ *Ibid.*

⁴ 'Whatever the character of these various classes of hereditary or semi-hereditary middlemen, one thing may broadly be said of them all, that they were the representatives of the governing powers, the delegates of the government, receiving the dues of government.' George Campbell, *op. cit.*, p. 143.

as State revenue, it would be evident that the system required a high degree of self-restraint on the part of the ruler and a strong centralised control over the intermediaries if it was to work smoothly and efficiently. If the ruler frequently raised the revenue, and did not ensure that the land revenue demand was raised in accordance with proper rules and regulations, the intermediaries were naturally apt to utilise their position for their enrichment, at the expense of the State as well as of the peasant. If the central administration was not powerful enough to ensure that all the links in the chain of revenue administration functioned according to rules laid down, the intermediaries would be prone to exercise arbitrary powers over the peasants as the representatives of the State. They were likely to usurp the rights of the State on the one hand, and of the peasants, on the other hand. They would be inclined to control what legitimately belonged to the government, and since the powers of the State were arbitrary, they were likely to exercise despotic power over the peasants.

If the sovereign took recourse to the method of revenue farming for assessment and collection of revenue, each of these intermediaries was bound to assume the position of a revenue farmer.¹ In that capacity, he was naturally interested in making as much money as possible out of the contract of revenue collection. If the *amil* held his office from the State or the *jagirdars* on farming terms, was required to collect a specified amount, and was not controlled in respect of the methods he employed for revenue collection, he would naturally oppress the peasants during the short term of his office. The other classes of intermediaries would also try to extract as much as possible for themselves and no heed would be paid to rules and regulations or scheduled revenue-rates.

In this process a mutual conflict of interests arose amongst the intermediaries themselves.² While, on the one hand, the intermediaries as a class were interested in encroaching upon the rights of the State as well as of the peasants, amongst themselves too, there was considerable scope for mutual conflict. The village headman in collusion with the *qanungo* would go against the *amil*; the

¹ Moreland, *op. cit.*, pp. 10-11.

² 'When the country fell under our government, we found no uniformity of system in any part of it. Every description of middlemen and every kind of opposing interest was in existence....' Governor-General's (Lord Hastings, Lord Moira) Minute dated 21 Sept., 1815, in *Selections from Revenue Records of North Western Provinces, (1818-1820)*, (Calcutta, 1866), p. 322.

amil with or without collusion with the *qanungo* and the *chaudhri* would come into conflict with the *jagirdars* or the State; the provincial governors and the chiefs and *rajahs*, in view of the weakness of the central power, would try to become independent and cease to remit the legitimate revenue of the State to the imperial administration.

There was thus nothing besides the power of the State and its central administration to regulate the relations between the intermediaries and the cultivators. Direct control of these classes by the system of transfers and despotic centralisation, and the powers of full intervention in their administration were the chief characteristics of the Mughal revenue system at its strongest. A strong centralised administration was vitally necessary for maintaining the rights and privileges of the various classes in the agricultural community. In the absence of such an administration, the whole fabric of society was liable to be severely shaken and the rights and privileges of all the classes to be seriously affected. This actually happened in the Ceded and Conquered Provinces towards the end of the eighteenth century, as is shown below.

STATE OF REVENUE ADMINISTRATION ON THE EVE OF THE BRITISH RULE

As long as the Mughal administration retained its vigour and self-restraint, the intermediaries were allowed to collect only as much revenue as was authorised by the State. Any breach of laws and violation of the scheduled revenue-rates were met with severe punishment and the removal of the intermediary. No additional cesses and *abwabs* beyond the rates laid down were allowed to be imposed, nor was any irregular misappropriation of revenue permitted. But, as the Mughal rulers began to demand more and more revenue, they were obliged to resort to the system of contracting with the intermediaries for the annual payment of stipulated amounts irrespective of the rates. The intermediaries at various levels, in their turn, now became revenue farmers and regarded themselves free to impose any cesses or *abwabs* on the peasants with or without the concurrence of the State. Gradually, full civil and military powers also passed into the hands of the revenue farmers to enable them to satisfy the increasing revenue demands of the Central Government.

Further, as a result of the gradual disintegration of the central administration, the provincial governors became more or less

independent. The former chiefs and *rajahs* who had been subdued and subordinated to the Mughal rule now seized the opportunity to become independent of the ruling power. All these local chiefs were actuated by the desire to extend their territories at the cost of a disintegrating empire and, therefore, needed more and more revenue. The assistance many of them secured from the East India Company in the quest of their ambition further obliged them to collect more and more revenue as heavy subsidies were demanded by the Company in lieu of its services. Farming out of revenue by the chiefs to their subordinate officers and *jagirdars* who in turn farmed it out to other intermediaries increasingly became the characteristic feature of revenue administration in later years of Mughal rule. For this reason, the growth of intermediaries during this period was considerably accelerated. The desire of the State for more and more revenue made it accept any person who would undertake to collect the State revenue as a revenue farmer.

Taking advantage of the weakness of the ruling power, the various intermediaries also engaged in a scramble for obtaining territorial possession and control over their respective areas.

The consequences were that, on the one hand, all the intermediaries employed at various levels in the assessment and collection of revenue assumed the role of revenue farmers and, on the other, they struggled for occupation and acquisition of territory. Instead of assessing and collecting State revenue according to the scheduled revenue rates and in accordance with the customary rules and regulations, they now began to extort as much as possible from the peasants. Thus, the village headmen,¹ the *chaudhris*, *qanungos*, *amils*, *jagirdars*, and other chiefs, *rajahs*, *nawabs*, and holders of interests in State revenue became more or less mere contractors of revenue.

These developments in the Mughal revenue administration have been brought out in several studies on Mughal history and can be observed in the contemporary accounts of British officers as well. For example, Moreland tells us that 'at the time of (British) acquisition, the Intermediaries found in the Ceded and Conquered

¹ 'In many villages, . . . the headmen have made themselves farmers, that is, levying the full Government share of the produce, and setting aside the right of their parceners to have a proportionate distribution of the assessed jumma, they have taken to themselves all the profit and loss on the engagement.' Holt Mackenzie's Memorandum, dated 19 Oct., 1826, in *Selections from the Revenue Records of N.W.P. (1822-1833)*, (Allahabad, 1872), p. 87. Also see Thomas Fortescue, *op. cit.*, pp. 117-18.

Provinces, presented... appearance of uniformity, which had been produced by the conditions prevailing in the country during the 18th century'.¹ He describes how under Aurangzeb, the system of assignments of revenue had become unpopular² since due to the flight of peasants, the income of the assignees had declined and the State had imposed upon them numerous services which required excessive expenditure. He illustrates how in Northern India, 'the Administration was gradually losing its hold on the country, officers were getting out of hand, and strong men were beginning to assume an attitude of independence'.³ He concludes that the 'eighteenth century was a period when *de facto* possession came to count for much more than title and it was characterised by an apparent assimilation among the different classes of intermediaries'.⁴

It is also during this period that the class of *taluqdars* emerged in several districts of the Ceded and Conquered Provinces as is indicated by Moreland,⁵ and amply illustrated in the early correspondence of the British collectors.⁶

An important development during this period was that wealthy persons came into close contact with the State and the intermediaries, and their fortunes also came to be associated with the fortunes of the revenue farmers.⁷ The *rajahs* and *nawabs*, who were seeking to extend their territories and build empires under the tutelage of the East India Company borrowed large funds from moneyed classes against the security of their revenues. Similarly, revenue farmers, who were called upon to meet sometimes the urgent and extortionate demands of the State borrowed large sums from these classes, again

¹ Moreland, *op. cit.*, p. 172.

² *Ibid.*, p. 151.

³ 'Strong viceroys might become *de facto* kings, as happened in Oudh, in Rohilkhand, and in Farrukhabad; and officers of lower rank might in the same way establish as practically independent within a smaller area. Speaking generally, we must regard the period which followed the death of Aurangzeb as one in which men of these various classes were competing with one another in a struggle for territorial position, and the revenue which it brought. Rights to receive the revenue might often be given to whoever secured possession by force.' *Ibid.*, p. 155.

⁴ *Ibid.*, p. 153

⁵ *Ibid.*, p. 150

⁶ See *Selections from the Revenue Records of the N.W.P.*, (Allahabad, 1873), pp. 391-416, particularly pp. 403-4 and 410-11.

⁷ '... in the decadence of the Mogul empire enterprising bankers and other speculators, taking contracts of this kind (revenue farming) exercised great authority.' J. W. Probyn (ed.), *Systems of Land Tenure in Various Countries*, (London, 1876), p. 142.

on the security of their revenues.¹ It may be said that during this period, the payment of exorbitant revenues to the State was draining the country of its liquid capital, which could have been invested more productively otherwise. Since the appropriation of a share of the State revenue was now a realisable dream for adventurous people, no longer dependent on mere status in the hierarchical order of the Mughal court (in view of the failure of the rulers to assert their rights), the moneyed classes did not consider it very risky to lend their capital on the security of land revenue. There were even certain transfers of rights to collection of revenue by sale, or mortgage,² although, theoretically, under the law and custom of India, such transactions were illegal and void unless sanctioned by the State. Neither the extent nor the money value of these transactions was large. But there was an indication of the rudiments of an ostensible right to the revenues of the State vested in private individuals, having come into existence, which superficially resembled the right of private property in land in the modern sense, viz., a right of transfer and alienation. In any case, the right to collect State revenue was becoming a right with a substantive value which could attract the capital of the moneyed classes. Thus, the pre-conditions for the functioning of a land market in India, created by the British in 1793, came into existence in the last days of the Mughal rule.

(iv) *State of Revenue Administration and Agriculture in the Ceded and Conquered Provinces*

During the few decades preceding the establishment of the British rule, the revenue administration of the Ceded and Conquered Provinces also exhibited the same abuses mentioned above. In the Ceded Provinces, the expenses of the *Nawabs* of Oudh had risen so high that they were almost on the verge of bankruptcy, the reason being partly personal extravagance, but mainly the increasing financial demands of the East India Company on the Nawabs after 1775. Soaring expenditure could be met either by the enhancement

¹ In regard to the control of the bankers on the revenue farmers in Oudh, see Purnendu Basu, *Oudh and the East India Company*, p. 105. Also see V. A. Narain Jonathan Duncan and Varansi, (Calcutta, 1959), p. 64.

² Harrington, *Extracts from Analysis of Bengal Regulations*, (Calcutta, 1866):; also see R. M. Bird's, Minute, dated 25 Sept., 1832, *Revenue Selections 1822-1833*, p. 421.

of the land revenue demand or by contracting more loans or both. The Nawab of Oudh resorted to both expedients. He extensively adopted the practice of farming the revenues annually to his *amils*, who were also vested with full civil and military powers. From these contractors of revenue the Nawab collected revenue sometimes even in advance to meet his excessive current expenses with the result that the subsequent year's revenue was heavily mortgaged.¹ The extent of his indebtedness rose so high that he had to repay one debt by contracting another at a still higher rate of interest. The inevitable consequence was that revenue administration passed completely into the hands of the *amils* and revenue farmers over whom there was no control.²

These persons oppressed every class of persons concerned with collection of State revenue as well as the village communities and their headmen. Even small *rajahs* and *taluqdars* who emerged during this period could not escape their oppression since they were asked to increase their payments to the *amils* somehow or the other.³ The *amils* imposed various cesses and *abwabs* like *rusoom*, *nuzzeranah*, etc., and collected as much revenue as was possible in any single year. All the rules sanctioned by custom or usage were ignored or bypassed. Violence was openly used in making collections. Military force always accompanied the *amils* to help them enforce their demands on the village communities.⁴

¹ Purnendu Basu, *op. cit.*, pp. 104-5; for full details regarding the deterioration of revenue administration of Oudh after its relations with the East India Company, in addition to Purnendu Basu's book, also see *Dacoity in Excelsis: or the Spoilation of Oudh by the East India Company*, (London), and James Mill's *History of British India*, Vols. II, IV, VI, (portions relating to Oudh).

² J. Routledge, the first British Collector of Gorakhpur district after the cession of the Ceded Provinces to the East India Company, wrote as follows on the state of the district: '... it is entirely without any sort of administration, that the inhabitants are most cruelly oppressed and the jumma (assessment) declining so rapidly that without the introduction of some system, the whole province, which is now nearly waste, would, in the course of one or two years more, become an entire scene of desolation.' Letter dated 6 Dec., 1801 in *Henry Wellesley's Correspondence*, (1801-03), edited by G. N. Saletore, (Allahabad, 1955), p. 2.

³ Routledge further wrote in the same letter, '... the amil has always taken as much of the produce as he could realise... collections have always been made without regard to any previous agreement; that Caboolets (documents of acceptance by revenue contractors) though taken by force have never been attended to if more could be obtained after exacting the amount stipulated.' *Ibid.*

⁴ In another letter, dated 14 Jan., 1802, Routledge wrote: 'That unusual oppressions were committed by the Amil in the preceding year cannot be doubted from the accounts I have received from all quarters, and the commandants of the Nabob's troops who accompanied the amil and by his directions enforced

The inevitable consequence of such oppression was that cultivation declined, villages were deserted and extension or improvement of cultivation became impossible.¹ The village communities, in order to seek protection from such violent oppression, sought the shelter of powerful individuals who could undertake the collection of the State's share from them and also deal with the *amils* themselves. They were even driven to concealing their real resources and avoiding the payment of even the legitimate dues of the State. In this process, various individuals who had the ability to pay the State revenue annexed many villages and undertook to collect the revenue from them and pay to the State. These revenue farmers formed the nucleus of the class of *taluqdars* which became an important part of the agrarian framework of U.P. in later years.²

the payment of his exactions, acknowledged to me that no regard whatever was paid either to written engagements or local customs, that not only the whole of the crops that could be seized were carried off by the Amil but also the cattle, and every sort of property belonging either to the Zamindars or Ryots, and they particularly instanced the oppression exercised on Jobe Rouje Singh, Raja of Bastee. . . . ' *Henry Wellesley's Correspondence, op. cit.*, p. 8.

¹ In his letter dated 14 Jan., 1802, Routledge further wrote: '... they (the ryots) were in many places by seizure of their cattle and personal property absolutely deprived of the means of (cultivation) and the consequence was that numbers of Ryots quitted their villages. Zemindars either defended themselves and their remaining ryots or retired to the jungles. In either case, the cultivation in most places was much neglected and in some almost entirely relinquished, the produce being barely equal to the consumption of the cultivators and their families and in no part of the country is there sugarcane or any other article of cultivation but the common necessities of life, although the soil is proverbial for its fertility and will certainly yield the most abundant crops of all the valuable articles of cultivation. Though the uncultivated state of this province has been long and generally known, yet it so far exceeds all that could be imagined that I find it impossible by any description I can give to convey any adequate idea of its desolated waste. For I have been credibly informed that in one year alone four hundred thousand Ryots emigrated from it and since which numbers have continued to emigrate and those who have remained never cultivated from fear of oppression to the extent they were capable of.' *Ibid.*, p. 9.

² *Selections of Revenue Records of the N.W.P.*, (Allahabad, 1873), pp. 398-99. In respect of *talookdars* in district Allahabad, we read, 'Originally, the talookdars had only their patrimonial estates, but being men of influence and wealth, the lands of the inferior proprietors passed into the hands of the former. . . . These talookdars have originated by the appendage of the minor estates from sales, transfers, mortgages, trusts, and gifts, or from seizure of the properties of others under the authority of the amil in cases where the talookdar stood security for the revenues, where they paid up the balances, or engaged at higher terms than those consented to by the proprietors, or when their influence with the revenue officers enabled them to deprive the landholder of his estate. . . . From the nature of these people (talookdars) there is reason to believe that those in power availed themselves of the times. . . the inferior landholders, from poverty or disability to contention, fearing the power of the *amil*, or of a powerful neighbour, and to secure their property and gain a protection to themselves and families placed the whole in the hands of chowdhree or a headman.' Also see *Selections from the Revenue Records of the N.W.P.* (1818-20), (Calcutta, 1866), pp. 172-93.

The oppression of the *amils* reached its climax during the last year of the Nawab's rule, i.e., 1800-01. Some of the *amils* had anticipated the cession of Oudh to the East India Company and thus were 'determined to complete the desolation' of their respective jurisdictions for 'their own private advantage'.¹ The earliest letters written by the British collectors of these districts show that 'unusual oppressions were committed by the *amils* in the preceding year', i.e., the year immediately preceding the establishment of the British rule. No regard whatever was paid either to written engagements or local customs. Not only the whole of the crops that could be seized was carried off by the *amil* but also the 'cattle and every sort of property belonging either to the zamindars or to ryots'.² The result was that the *ryots* quitted their villages and the zamindars either defended themselves or fled to the jungles. In one year, from Gorakhpur alone, above four hundred thousand *ryots* emigrated and those who remained never cultivated their land to their best capacity from fear of oppression. Cultivation in most places was neglected and in some entirely abandoned, the produce being barely equal to the consumption of the cultivators and their families.³ No valuable crops like sugarcane were sown.

The revenue administration in the Conquered Provinces also had similar features. Various governments, which had ruled them in succession before the British, had farmed out the revenue to the *amils* who collected them by the same violent means as in the Ceded Provinces. The proportion of the crop taken away from the cultivator was determined more by the 'will of the *amil*' than by any established rule.⁴ The persons or classes to whom the *amils* entrusted actual collection were the same as in the Ceded Provinces, viz., the village headmen (*muqaddams*) or *rajahs*, *taluqdars*, *chaudhris*, *qanungos*, etc. But from them, they collected the revenue with the same

¹ Letter of Routledge dated 14 Jan., 1802 in *Henry Wellesley's Correspondence (1801-1803)*, p. 9

² *Ibid.*

³ *Ibid.*

⁴ The collector of Saharanpur, in his letter to the Board of Commissioners, wrote in 1807. . . 'under the late Government (prior to British rule), the public revenue was not fixed by assessment on the lands or by specific terms of settlements concluded with the zemindars, but according to the system then pursued of farming or of holding lands imance, which does not differ from farming. In so far as the zemindars are concerned the dues of the sircar were realized either by exacting a part of the crops, the proportion of which was determined by the will of the *amil* rather than conformably to any established rule, or by levying the value of such proportion in cash according to its price in the market, the rates of which were regulated by the Government.' *Revenue Selections*, (1873), p. 286.

severity as in the Ceded Provinces. In a letter from the collector of Agra dated 29 September, 1807, we read, 'The amils under the former Government collected the revenue by violent means; they enforced from the petty zemindars nearly the full jumma which their estate enabled them to pay'.¹ Similarly, in another letter from the collector of Coel (Aligarh) dated 12 October, 1807, we find that 'the system of rent oppression and extortion. . . which has prevailed has operated with the most injurious influence upon the prosperity of this country. The exertions of the landholders have been discouraged, and their means of cultivation been denied them by depriving them of the fair profits of their industry. They have found every attempt at improvement instead of being beneficial to themselves, to have been subservient only to the rapacity of the Government or of farmers; and without any inducement to stimulate their labours, agriculture, as a natural consequence, has languished and declined'.²

¹ *Revenue Selections*, (1873), p. 335.

² *Ibid.*, p. 338; also see another letter from the Collector of Aligarh dated 16 April, 1808, in *Ibid.*, pp. 356-57.

The Economic Organisation of the Village in the Immediate Pre-British Period

IN THIS chapter, we shall examine certain general features of the village communities in the Ceded and Conquered Provinces towards the end of the eighteenth and the beginning of the nineteenth century. We shall analyse their composition, the web of economic relations which held their members together and the integral character of the relationship between the Mughal revenue system and the economic life of the village communities. In the subsequent chapters, we shall examine how these general features relating to the composition and character of the village communities were gradually transformed as a result of the impact of British revenue policy and administration.

The village communities in the Ceded and Conquered Provinces in early nineteenth century consisted of several horizontal social layers with very different rights and claims.¹ These different social strata consisted of persons belonging to different castes and religions. Even the classes possessing the rights of ownership, occupancy and cultivation of land were not in all cases and always united by bonds of kinship, caste or even religion. There were different groups amongst them consisting of persons belonging to different castes, tracing their lineage from different ancestors and professing different religious faiths.² These features were derived generally from the accidental circumstances connected with the founding of the village and the subsequent social and political events that affected it.

¹ H. S. Maine, *Village Communities in the East and West*, (London, 1895), pp. 123 and 176.

² See Holt Mackenzie's Memorandum, dated 19 Oct., 1826, in *Selections from the Revenue Records of the N.W.P. (1822-1833)*, (Allahabad, 1872), pp. 84-202. In this Memorandum, Holt Mackenzie has furnished the details of the internal constitution of a large number of villages in the districts of Saharanpur, Meerut, Aligarh, Etawah, Gorakhpur, Azamgarh and Ghazipur. (See particularly pp. 86, 93, 94, 98, 100, 103, 105.) Many villages at the beginning of the nineteenth century appear to have consisted of persons who held similar rights in land and were living in the same village and still belonged to different castes, races and religions.

Rights in land arose by inheritance generally, and very seldom by purchase. In the first instance, land belonged to those who cleared it and cultivated it. Thereafter, it devolved on their heirs in successive generations, descending from father to all the sons of the same mother in equal proportions.¹ Such inheritance was of course strictly within the caste since it could only pass on to the members of the family or near relations in the absence of male heirs.

In the process of colonisation, rights on land originated even by conquest. Different races, castes and communities participated in the process of colonisation² and naturally acquired rights in the ownership, cultivation or management of land. Religious movements also influenced the village communities and members of different castes, races and communities embraced different religious faiths at different times. It is no wonder, therefore, to find that by the end of the eighteenth century and the beginning of the nineteenth, village communities were an amalgam of different castes, races and religious communities in different degrees.³

The rights and privileges of the various groups within the village community were not always governed by considerations of caste alone. At least during the period immediately preceding the British conquest, caste appears to have been important in regulating the broad division of labour within the village community between such groups as artisans, agricultural labourers (who were few in number), and cultivators. But the rights and privileges of these different groups were determined by their functional relationship to and their role in the village economy and the nature of work done by them. This can be inferred from the fact that within each of these broad groups, there were persons of different castes but they enjoyed similar rights and privileges in land or its produce.⁴ If members of the caste to which the family of the original founders belonged were

¹ T. Fortescue, Report on the Revenue System of Delhi Territory in *Records of the Delhi Residency and Agency*, dated 28 April, 1820, (Lahore, 1911), pp. 69-130; for property in land and inheritance, see pp. 74-76. Also see Holt Mackenzie's Memorandum dated 19 Oct., 1826, in *Revenue Selections (1822-1833)*, p. 86.

² H. S. Maine, *op. cit.*, pp. 176-78.

³ Also refer to Moreland, *The Agrarian System of Moslem India*, (Cambridge, 1929), pp. 160-68. Though Moreland does not discuss the village organisation in respect of its castes, races or religious communities, he confirms that there was considerable diversity of conditions in the organisation of villages in Northern India.

⁴ See details of the internal constitution of village communities in Holt Mackenzie's Memorandum, *op. cit.*, and in T. Fortescue's Report, *op. cit.* Also see Maine, *op. cit.*, p. 170.

not sufficiently numerous for cultivating the land of a village, cooperation of persons of other castes was freely sought and they were allowed to occupy and cultivate the village land.¹

The bonds of economic life that united these heterogeneous groups belonging to different castes and races were many and strong. People had certain common rights over land and its produce.² They had evolved common rules and regulations epitomised in their customs and usages which were uniformly accepted and observed by all their members. They had devised certain customary principles according to which the State revenue to be paid was assessed and collected from individual households and was also readjusted owing to the frequent changes in the incidence of State revenue. They accepted certain mutual rights and obligations which made the village communities active and living institutions. The economic life of the community had an even tenor except when it was disrupted by external aggression. But, curiously enough, the economic unity of the village community was not undermined by conflicts resulting from differences of caste, race or religion.³ Each group observed the rules of its community in respect of inheritance, or in matters of personal or family life. But in matters of economic life, all were subject to the common laws of the village community.

BASIC FEATURES OF VILLAGE ORGANISATION

The most important characteristic of the village communities was their self-sufficiency. They produced almost all that was required for their consumption and production.⁴ This was possible because they consisted not merely of cultivators but also of a group of artisans,⁵ who supplied them with the non-agricultural products

¹ This fact is brought out in all contemporary writings. See T. Fortescue, *op. cit.*, p. 77; Holt Mackenzie's Memorandum, *op. cit.*; Maine, *op. cit.*, p. 128 and p. 166.

² Also see Letter of the Collector of Saidabad dated 25 July, 1831, *Revenue Selections (1822-1833)*, pp. 328-33, and Letter of the Acting Collector of Agra, dated 6 Aug., 1831, in *Ibid.*, pp. 309-15.

³ '...neither are the numerous landowners whether divided off distinctly amongst themselves, and in separate possession of their shares as individuals, families, or religious persuasions, separated by interest or action'. Thomas Fortescue, *op. cit.*, p. 85.

⁴ Minute by Charles Metcalfe, dated 7 Nov., 1830, in *Selections from the Revenue Records of the N.W.P., (1822-1833)*, (Allahabad, 1872), p. 218; also *Report of U.P. Zamindari Abolition Committee*, p. 67. Also see Maine, *op. cit.*, p. 175.

⁵ Maine, *op. cit.*, p. 176

they required. These artisans were not employees of any particular family in the village but attached to the entire community.¹ They were bound to supply their products or services to all members of the village community for customary payments, generally in kind.²

Village self-sufficiency was maintained by the hereditary nature of the artisans' occupations. The continuous supply of hereditary skilled labour within the community was ensured by the caste laws according to which particular castes could be employed only in specific occupations. Even if some artisans were engaged in cultivation—as many of them were on their small allotment lands³—they continued to practice their craft as well.

The village community also included a group of common village servants who rendered common services to all the members.⁴ Like the artisans, they too were neither independent nor attached to particular families but were common to all households. Their obligations and emoluments were also similarly regulated by custom.⁵

Thus, the self-sufficiency of the village community was based on integration of agriculture with handicrafts, not within individual households but in the village as a unit of organisation. This division of labour in the community was quite different from the one brought about by exchange of commodities through the market, the cultivators producing mostly for direct use while the artisans producing for an unchanging and limited market.⁶ It was the result of a customary division of caste functions and was sustained by the sanction of village usage and custom.

Another important feature of village communities, often emphasised, was their stability and strength which was sustained over centuries in spite of 'constant dissolution and refounding of states and never ceasing changes of dynasty'.⁷ They have been regarded as almost transcendental, 'surviving all changes, indestructible, irrepressible', and 'constantly reproducing themselves with

¹ *Ibid.*

² *Ibid.*, also see Thomas Fortescue's "Report on the Revenue System of Delhi Territory" in *Delhi Records*, p. 81; H. S. Maine, *op. cit.*, p. 126; Holt Mackenzie's Memorandum, *op. cit.*

³ Thomas Fortescue, *op. cit.*, p. 81; also Holt Mackenzie's Memorandum, *op. cit.*

⁴ *Ibid.*

⁵ *Report of the U. P. Zamindari Abolition Committee*, p. 67.

⁶ Karl Marx, *Capital*, Vol. I, (New York), p. 394.

⁷ Marx, *Articles on India*, (Bombay, 1945), p. 70.

the same name, within same limits, with same interests'.¹ They have seemed 'to last where nothing else lasts. Dynasty after dynasty tumbles down; revolution succeeds revolution. Hindu, Pathan, Moghuls, Mahratta, Sikh, English are all masters in turn but the village communities remain the same'.²

In its constitution and organisation, the village community has been viewed as a 'little world', a 'little state in itself', containing all the instruments of self-government and self-organisation. Village communities have been described as 'little republics', a 'little democracy'³ with no other authority than such as arises out of the general will.⁴ Its various members, particularly those possessing rights in land have been considered as 'all standing on a footing of equality with a greater or less share of property and of personal influence'.⁵

These features have 'charmed a generation' of students and scholars. However, on close examination, it appears that these features were partly the consequence of the indigenous revenue systems, radical modifications in which brought about important modifications in these idyllic features, as happened during the early years of the British rule. That these features were based on the nature and forms of property in land and its produce under a particular revenue system and disappeared as soon as that system was changed would be clear when we examine the structure of the village communities and the rights and privileges of its various classes.

(i) *Social Stratification in the Village*⁶

The composition of the village communities and the rights and interests of the various classes had been influenced by numerous natural and social factors. For this reason, the social stratification

¹ *Ibid.*

² Minute by Charles Metcalfe, *op. cit.*, p. 218.

³ Minute by R. M. Bird, dated 25 Sept., 1832, in *Selections from the Revenue Records of the N.W.P. (1822-33) (1872)*, p. 449.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Apart from the references given in respect of the Social Stratification in the Village, also see *Memoir on the Land Tenures and Principles of Taxation*, by a Civilian in the East India Co.'s Service, (Calcutta, 1832), Chapter VI. 'The State of the Agricutural Community, as it existed on the accession of British Dominion, in Benaras and Bihar, but more particularly in the Ceded and Conquered Provinces, and as it still subsists, with some slight difference, where the enforcement of our laws, and the decrees of our Courts have not induced alteration.'

in every village was not exactly similar. It is, therefore, difficult to maintain that every village in the Ceded and Conquered Provinces had a uniform structure. Nevertheless, there were certain common characteristics in the organisation of village communities which may be noted.

The evolution of a village community depended very much on the period of time over which a village had been in existence. Villages recently founded tended to have simple social stratification, while those in continuous existence for long revealed a much greater complexity of social structure. Towards the beginning of the nineteenth century, we find three types of villages: *asali*, i.e., a village with a regular habitation; *dakhili*, i.e., a village without a resident population and the land in which is tacked on to that of a neighbouring village and cultivated by its residents; and *wirani*, i.e., a village uninhabited and uncultivated but recognised as a distinct village.¹ The third type may be explained by wholesale depopulation, due to fiscal oppression or famine. The second type might actually have been on the way to becoming a regular village into which some members of the neighbouring village had moved, initially for cultivation and settled there in course of time. Thus, since the villages passed through a process of formation and dissolution, it was natural that at any point of time they did not reveal a homogeneous structure. However, there were certain similarities in their organisation and in the nature and form of property in land or produce, on the basis of which the following picture of social stratification has been drawn.

Towards the end of the eighteenth and the beginning of the nineteenth century, a typical village of the Ceded and Conquered Provinces had a village community consisting of 'several parallel social strata',² a sort of hierarchy, which was determined by the order in which the various units of families got absorbed in the community.³ There were first families which had descended from the original founders of the village. These were generally known as the village zamindars.⁴ When grouped into divisions and sub-

¹ Moreland, *op. cit.*, p. 166.

² Maine, *op. cit.*, p. 176.

³ *Ibid.*, p. 177.

⁴ *Selections from the Revenue Records of the N.W.P. (1818-1820)*, (Calcutta, 1866), p. 219 and p. 225-66; also *Selections from the Revenue Records of the N.W.P. (1822-1833)*, (Allahabad, 1872), particularly the Minutes of Charles Metcalfe (pp. 208-24), R. M. Bird (pp. 441-51) and the Governor-General (pp. 351-418), therein. Also T. Fortescue, *op. cit.*, p. 74-76.

divisions, they were also designated as co-parceners, sharers, *pattidars*, *thokedars*, or *behriwars* as will be explained below.¹

Ranking below them were other families which had been integrated into the community over a long period in the wake of the process of colonisation and conquest. The main reason why they were absorbed was the need of the community for more hands to cultivate the village lands. As the result of the extreme uncertainty of seasons, shortage of labour due to temporary migration of the village population or the need to extend cultivation to the wasteland, there was gradual absorption of a class of persons within the community who acknowledged the superiority of the rights and privileges of the original inhabitants,² but who were, nevertheless, part of the community. The degree of thoroughness of their absorption depended on the length of the period over which they were settled on village lands. This class of persons was known as resident, *maurusi*, *qadimi*, *chhapparband*, or *asami* ryots.³

The next in order of rank was the class of persons who were generally non-residents but cultivated the lands of the village from season to season or for temporary periods.⁴ They generally resided in neighbouring villages and belonged to either of the two classes mentioned above in the villages of their residence. They sometimes also belonged to such cultivating castes as the *mali*, *kachhi*, *koiri*, *arain*, etc., which had specialised in intensive cultivation of valuable crops like vegetables.⁵ They were attracted by the presence of particular grades of soil like the river beds, flooded lands or sandy soils in neighbouring villages. Sometimes when the government assessment was heavy, the village zamindars often resorted to such intensive cultivation in neighbouring villages to meet the revenue demand. Sometimes, absolute deficiency of good cultivable land in particular villages encouraged such cultivation.⁶ This class of peasants was known as non-resident or *pahi-kasht* cultivators.⁷

¹ *Revenue Selections (1818-1820)*, *op. cit.*, pp. 206-7. Also Thomas Fortescue, *op. cit.*

² Thomas Fortescue, *op. cit.*, p. 78; George Campbell, *op. cit.*, p. 139; Holt Mackenzie's Memorandum, *op. cit.* Moreland, *op. cit.*, p. 161 fn.

³ George Campbell, *op. cit.*, p. 136.

⁴ Thomas Fortescue, *op. cit.*, p. 79.

⁵ Moreland, *op. cit.*, p. 179.

⁶ *Selections from Revenue Records (1818-1829)*, p. 219. Also Thomas Fortescue *op. cit.*, p. 79.

⁷ Thomas Fortescue, *op. cit.*, p. 79; Moreland, *op. cit.*, p. 161 fn. George Campbell, *op. cit.*, p. 139. Also see C.D. Field, *Landholding and the Relation of Landlord and Tenant in various countries*, (Calcutta, 1885), Chapter XVIII.

VILLAGE ZAMINDARS

The most important and numerous class in the village communities was that of the village zamindars. They were generally divided into several divisions and sub-divisions, each consisting of a group of households. The principal divisions were known as *pattis*¹ or *panas* (in Delhi territory).² The sub-divisions were known as *thokes*.³ Further sub-divisions of a *thoke* were known as *behris*.⁴ The different names given to village zamindars such as *pattidars*, *thokedars* or *behriwars* are derived from the names of these divisions and sub-divisions.⁵

The principle behind these divisions was that each village was deemed to have been founded by an individual or a group of founders. The principal divisions were created by the original founders themselves. The total cultivated land of the village was divided equally amongst the founders.⁶ The wasteland was generally left undivided for common use and future reclamation by the different households according to their means.⁷ Divisions of village land were indicated by a fraction of a *bigha* (consisting of 20 *biswas*).⁸ The area of the *bigha* varied in different localities, but all types of *bighas* were divided into twenty *biswas*. For instance, if there were four founders of a village, each was deemed to have held five *biswas* in the village which was divided into four *pattis*. The male descendants of each founder divided the lands equally amongst themselves and the process went on through succeeding generations. When the number of households in a *patti* became too numerous, they divided themselves into *thokes*. All descendants of a particular ancestor were included in one such sub-division and they constituted a separate group for purposes of assessment of State revenue. Similarly, when the number of families in a *thoke* became too

¹ *Revenue Selections (1818-1820)*, *op. cit.*, pp. 206-7.

² Thomas Fortescue, *op. cit.*, p. 74.

³ *Revenue Selections (1818-1820)*, p. 207; also pp. 225-26.

⁴ *Ibid.* Also see *Four Circulars of the Sudder Board of Revenue (1839-1841)*, (Calcutta, 1866), Circular dated 9 April, 1839, para. 200.

⁵ *Ibid.*

⁶ Thomas Fortescue, *op. cit.*, p. 74-75. Also see Holt Mackenzie's Memorandum, 19 Oct., 1826, in *Revenue Selections (1822-1833)*, p. 86.

⁷ George Campbell, *op. cit.*, p. 135; Maine, *op. cit.*, pp. 120-21.

⁸ *Revenue Selections (1818-1820)*, *op. cit.*, pp. 206-7; also Holt Mackenzie's Memorandum, 19 Oct., 1826.

many, they divided themselves into *behris* and constituted a separate sub-division.¹

PRINCIPLE OF DIVISION OF LANDS

The principle of division of lands closely followed the principle of division of households. Nevertheless, it was not necessary that each *patti*, *thoke* or *behri* was at all times in possession of the same area of land which was indicated by its fractional share. This may be explained by two circumstances. Firstly, as the number of descendants varied, different divisions and sub-divisions consisted of different sizes of labour force seeking available land. Thus, divisions with a proportionately large labour force tended to occupy more land than those with a smaller labour force.² Secondly, the lands might have been divided as between sub-divisions on the basis not merely of area but also of quality. In the latter case, allowance was probably made for the inferior quality of land so that the sub-division possessing inferior land had a larger share in terms of area of land allocated.³

The extent of landholding amongst different families within a sub-division also might not always be equal. The unequal number of descendants in different families disturbed the original equality of landholdings. Further, the inability of a particular household to cultivate its entire share of land necessitated some adjustment with other families in the same sub-division or in other sub-divisions. Such mutual adjustments between families, divisions and sub-divisions were known to have been a familiar feature of village organisation in pre-British days, probably because of the nature of property rights in lands,⁴ which we shall examine later in this chapter.

Another factor contributing to the inequality of landholding between households and between divisions and sub-divisions was the availability of wastelands. Wastelands were generally the common

¹ See correspondence connected with land tenures in Bundelkhand in *Revenue Selections (1818-1820)*, pp. 218-50, in particular p. 219.

² 'Disproportion of population or means, with reference to the inheriting sharers and their stock in the different landed divisions of the village often lead to amicably cultivating other sharers' lands.' Thomas Fortescue, *op. cit.*, p. 77.

³ *Ibid.*, pp. 75 and 78; also Holt Mackenzie's Memorandum, 19 Oct., 1826.

⁴ 'These divisions of the lands depend upon the pleasure and convenience of the parties interested.' Thomas Fortescue, *op. cit.*, p. 75. Also see p. 122 regarding the extent of mutual cooperation and friendliness that subsisted between different sharers.

property of the village zamindars. Sometimes, they were partitioned between sub-divisions (not amongst individual families), and sometimes they were left for joint utilisation by all households. Since different families reclaimed wastelands only according to their means, these varying additions tended to make the landholdings unequal.¹

PRINCIPLE OF DIVISION OF GOVERNMENT ASSESSMENT

The initial distribution of the government assessment amongst different divisions and families closely corresponded to the fractional shares in land held by each. The fractional share in assessment was indicated by a fraction of a *rupee* (16 *annas*). For instance, in the example given earlier the contribution of each *patti* would be indicated as 4 *annas* in the total assessment. But with the passage of time, as inequalities in landholdings appeared, it became necessary to devise methods for assessing and collecting the State revenue on some basis different from fractional shares. By the end of the eighteenth century, in most villages, the State revenue on individual families was assessed according to their cultivated holdings and not on the basis of their fractional shares. There were some cases in which contributions of the sharers were regulated by the number of ploughs, or some other measures.² But the ultimate objective of these measures also was to assess the State revenue according to the extent of land cultivated.

However, in some areas as in Bundelkhand, where the *Bhaichara* tenure prevailed and extensive wastes had not yet been divided between the divisions and sub-divisions of a village, the State revenue was still assessed according to the fractional shares. Consequently, there prevailed a system of periodical redistribution of landholdings amongst different households, by means of which the inequalities of actual holdings were corrected and the fractional shares of government assessment were periodically revised.³ Whenever the landholding of an individual sharer tended to become unequal, or unable to bear its share of the government revenue, the sharer was entitled to claim

¹ *Report of the U. P. Zamindari Abolition Committee, op. cit.*, p. 68; also see Maine, *op. cit.*, p. 121; *Revenue Selections (1822-1833)*, pp. 358-59.

² See Thomas Fortescue, *op. cit.*, pp. 95-97, for various methods of apportioning government assessment on individual village zamindars.

³ See Correspondence regarding land tenures in Bundelkhand in *Revenue Selections (1818-1820)*, *op. cit.*, pp. 220 and 225-26.

repartition of the lands so that landholdings might correspond to the revenue assessed on each family. This was generally resisted by members who had in the meanwhile added to their lands or improved them and the incidence of government revenue on whom had become light. Generally, the officers of former governments also assisted in such redistribution when it could not be effected by mutual agreement. The State intervened because the security of its own revenue was threatened in the absence of such redistribution.¹

VILLAGE HEADMEN

The affairs of each sub-division of village zamindars were managed by a village headman functioning for each division or sub-division. The village headmen assisted in first adjusting the government assessment in co-operation with the officers of the State, in regulating the quota of each sharer and then in collecting and paying the assessed amount to the State. They worked in close co-operation with the village *patwaris* who were entrusted with the task of recording the area of land cultivated by each household, the nature of crops sown and the amount of revenue to be collected from each. In addition, the village headmen had also the powers to settle resident or non-resident *ryots* on the wasteland belonging to the respective sub-divisions or to the village in common. The receipts from such *ryots* were also recorded in the accounts of the *patwaris*. The headmen were also referred to on all occasions by the other sharers and public officers in the matter of settlement of disputes and were looked upon as the responsible and efficient agency on every occasion on which the ruling powers had dealings with the village.²

The office of the headman was partly elective and partly hereditary. He was chosen by the division or the village, as the case may be, on the basis of his age, experience and ability. But the office was permitted to descend from the father to the eldest son except when the heir was incapable of performing his duties.³

Another important function of the village headman was to collect and manage the funds spent on common purposes. There was a levy on every household in the village and the proceeds were utilised for

¹ *Ibid.*

² Thomas Fortescue, *op. cit.*, pp. 82-84; also Holt Mackenzie's Memorandum 19 Oct., 1826, *op. cit.*

³ *Ibid.*

expenditure of a common nature.¹ A proper account of such collections and expenses used to be rendered to the whole body of co-parceners.²

The remuneration of the headmen for their duties was paid partly by the State and partly by the co-sharers in several forms.³ Firstly, all the common lands like ponds, gardens, forests, fisheries, pastures and cultivable wastes, left unassessed by the State, were in the charge of the headmen who were empowered to enjoy the benefits derived therefrom in preference to others. In later years, when additional cesses and *abwabs* were imposed by the State even on the produce of these common lands, the village headmen were permitted to enjoy a portion of their produce.⁴ Secondly, the lands under the personal cultivation of the headmen were assessed at a lower rate than those of the other co-sharers of his division, thus indirectly leaving him a share of the legitimate revenue of the government.⁵ Thirdly, a *malikanah* of varying amounts was paid to compensate them for the trouble of collections.⁶ This was fixed as a percentage of the State revenue and was paid to the headmen by the Treasury. It was distinct from the 'nankar allowance', allowed to the other intermediaries for the trouble and expense of collection. It was also distinct from the concessions allowed to the village zamindars by

¹ The chief items of expenditure on common purposes are given as follows by Fortescue: 'Feeding of zamindars of other villages on visit or travel; feeding the village's own muqaddam or its zamindars when absent on the business of the community, whether with the revenue officers or elsewhere; feeding religious persons sojourning as Fakeers, Brahmins, Byragees, Jogeas, Sunnyasis etc., payments of dustuckana or tullabana to horsemen and peons sent by officers for revenue or other purposes; allowances to the village watchmen (chawkidars) when ordered to be entertained; remuneration to individuals for the losses sustained by them in furnishing their cattle and carts when forced by Government; butta on the rupee required by Government in payment of the revenue; repairing tanks and wells, leather buckets (doles) and ropes etc.; fines including those imposed for the value of plundered or stolen property when traced within the boundary of the village; presents to Domes (songsters), Bhauts (bards), Nuts (jugglers), Rangars (dancers); charity to distressed persons; interest on money borrowed to pay the revenue; expense of ceremonies to implore rain and favourable seasons; Putwari's expenses; oil and lights for the village chaupar (or place of assembly); pay to the village Fakeer attending the village chaupar; burial expenses of a muqaddam or other respected or principal person and the like expenses of condolences to the sons of deceased neighbours; festival (as Holi) expenses; Thakoor Dwara (a place of worship) expenses; marriage expenses to neighbours passing; expenses in feeding Punchayats assembled on the business of the village.' Thomas Fortescue. *op. cit.*, pp. 83-84.

² *Ibid.*; also see Holt Mackenzie's Memorandum, 19 Oct., 1826, *op. cit.*, p. 98.

³ *Ibid.*

⁴ *Ibid.*, p. 112.

⁵ Thomas Fortescue, *op. cit.*, pp. 82-83; also Holt Mackenzie's Memorandum, 19 Oct., 1826, *op. cit.*, pp. 96-97, 103.

⁶ Holt Mackenzie's Memorandum dated 19 Oct., 1826, *op. cit.*, pp. 86, 87, 114.

way of deductions from their gross payments on the basis of their customary rights.¹

From the community, the headmen received all the deference that was due to their office. They had a prior claim on the services of village artisans.² They also received certain customary presents during the year from the artisans and village servants. Certain customary dues on occasions of marriage and birth were also paid to them. No social ceremony was complete without his participation. He was an arbitrator in disputes of all kinds amongst the co-sharers of his division.³

It is important to note that while the names of all the co-sharers were recorded in the papers of the village *patwari*, in the papers of the *qanungos*, who were the accountants for a group of villages, only the names of the headmen with the amounts of revenue to be collected from them were recorded, with designations such as *muqaddams*, *pradhans*, or *mukhias*.⁴

As regards the village, it was organised into a brotherhood⁵ of which all the village zamindars were equal members. There was a council of elders to run the affairs of the brotherhood, of which all the headmen of different sub-divisions were members. This body was the highest authority in the village in respect of all matters, civil, criminal, social, economic or political.⁶

RESIDENT AND NON-RESIDENT RYOTS

Unlike the village zamindars, the resident and non-resident *ryots* were not included in the brotherhood and had no hand in the common management of village affairs or in the settlement of disputes. Their number in each village relatively to that of village zamindars was also much less. There were no divisions or sub-divisions amongst them either. Their rights were considered slightly inferior to those of the village zamindars.⁷

¹ *Ibid.*, p. 12; also *Revenue Selections (1818-1820)*, p. 338-39.

² Thomas Fortescue, *op. cit.*, and Holt Mackenzie's Memorandum, 19 Oct., 1826, *op. cit.*

³ *Ibid.*

⁴ The significance of such a record will be clear when we discuss the principles and practices of the British revenue administration in the Ceded and Conquered Provinces in the subsequent chapters.

⁵ Moreland, *op. cit.*, pp. 160-62.

⁶ George Campbell, *op. cit.*, p. 135; Thomas Fortescue, *op. cit.*, p. 125.

⁷ George Campbell, *op. cit.*, pp. 137-39; Metcalfe Papers, *op. cit.*, p. 257; also see A. D. Campbell "Paper on Land Revenue of India" in *Report of the Select Committee on East India Affairs, 1832*, Vol. III (*Revenue*), Appendix, pp. 11-12.

OTHER CLASSES IN THE VILLAGE COMMUNITY

There were some other classes in the village communities which were not numerous but which, nevertheless, were an integral part of the community. These were the artisans, labourers (*kumehras*), and the village servants, as already mentioned. The essential features of the relations between the village community and the artisans and servants have already been mentioned. They were generally paid a customary share of the gross produce at the harvest time by each household. A few of them also held small plots of land to cultivate with or without payment of government assessment.¹

As regards labourers, they generally belonged to the caste *chamar* (depressed caste) and were also simultaneously artisans (leather dressers, cobblers, and shoemakers). Their services were utilised mainly as ploughmen by such higher castes as considered it derogatory to touch the plough.² Village headmen also employed them.

¹ Thomas Fortescue, *op. cit.*, p. 81. The list of artisans and village servants usually found in villages and their emoluments are given in a list by Fortescue (p. 81) as follows:

<i>English Name</i>	<i>Native Names</i>	<i>Lowest Allowance</i>	<i>Highest Allowance</i>	<i>Average Allowance per plough</i>
Blacksmith	<i>Lohar</i>	20 seers	1½ maund	1 maund
Carpenter	<i>Burhye</i>	20 "	2 "	1 maund
Potter	<i>Coomhar</i>	10 "	1 "	20 seers
Washerman	<i>Dhobee</i>	10 "	1 "	20 "
Barber	<i>Nae</i>	10 "	1½ "	1 maund
Bearer	<i>Kahar</i>	10 "	1 "	20 seers
Water-carrier	<i>Suqqa</i>	20 "	2 "	1 maund
Tailor	<i>Durzee</i>	20 "	20 seers	15 seers
Musician	<i>Dome</i>	5 "	1 maund	20 "
Cotton-stuffer	<i>Dhonia</i>	10 "	10 seers	10 "
Cloth-stamper	<i>Chepee</i>	10 "	10 "	10 "
Priest	<i>Brahmin</i>	½ "	1 "	¾ "
Cloth-dyer	<i>Rungreze</i>	10 "	10 "	10 "
Messenger	<i>Bullakur</i>	5 "	20 "	10 "
"	<i>Dhanuck</i>	5 "	20 "	10 "
Sweeper	<i>Khakrobe</i>	5 "	1 maund	10 "
Guide	<i>Douraha</i>	10 "	1 "	20 "
Police Informer				
Shoemaker	<i>Chumar</i>	1 maund	20 maunds	1½ maund
Cobbler				
Leather dresser				

Also see Holt Mackenzie's Memorandum dated 19 Oct., 1826 in *Revenue Selections (1822-1833)*, pp. 84-202.

² Thomas Fortescue, *op. cit.*, p. 80.

They were given one-sixth or one-eighth share of the gross produce¹. This was in addition to their customary receipts in kind as artisans. Generally, there existed a hereditary connection between them and some families of the village who had a prior claim on their services. But, out of season, they were free to work as day labourers in miscellaneous employments.²

It is difficult to establish their numerical strength in the different villages on the basis of contemporary published records.³ But from all accounts, it appears that they were not very numerous.⁴ Their number depended upon the number of *chamar* families in particular villages and on the number of resident families belonging to high castes as did not like to cultivate their own fields. In the absence of the pressure of population on the land, owing to plentiful wasteland being available at favourable rates of assessment, the growth of this class must have been very limited.⁵ Another limitation on the increase in their numbers must have been the absence of evictions from land in view of the principles of property and occupancy rights in land as explained further in this chapter.

TRADER AND PATWARI

It is important to notice two more persons in the village community, i.e., the trader and the *patwari*. Sometimes, they were one and the same person,⁶ but at other times they were different persons. Besides carrying on trade in agricultural produce, the trader was also a financier of the community in times of distress and a money-changer who exchanged various currencies for payment of revenue and other monetary transactions.

The *patwari*, as already mentioned, kept all records pertaining to the land and its yield and the assessment to be shared by each individual family together with the changes in the share from time to time. He also had to keep track of local circumstances that

¹ *Ibid.*; also Holt Mackenzie's Minute, dated 19 Oct., 1826, *op. cit.*, p. 115.

² *Ibid.*; Holt Mackenzie, p. 89; and Thomas Fortescue, p. 80.

³ Holt Mackenzie's Memorandum, dated 1 July, 1819 in *Revenue Selections (1818-1820)*, pp. 97-98.

⁴ Holt Mackenzie's Memorandum, dated 19 Oct., 1826, *op. cit.*,

⁵ Moreland in his *Agrarian System of Moslem India*, *op. cit.*, p. 160, writes that 'The class of landless labourers was, as it still is, widely spread.' But it can be said that even if they were *widespread*, they could not be very *numerous* as is amply brought out in all contemporary records.

⁶ Thomas Fortescue, *op. cit.*, p. 84.

affected the crop yields in the case of every household.¹ By virtue of his long experience, he had the best information about the various qualities of land, their average yields, and the numerous other details connected with the estimation and assessment of village produce. His remuneration was included in the village expenses as a percentage on the government assessment, and he was considered as an officer of the whole village community without being subordinate to any particular individual. In daily life, he worked in close collaboration with and under the supervision of the village headmen.²

(ii) *Nature of Property in Land, Tenancy and Rent*

The most important question bearing on the rights and interests of different classes of persons in the village community is that relating to the nature of property in land and its produce and the nature of tenancy of the resident and non-resident *ryots*. These two questions have been mainly discussed in the contemporary records in terms of the misleading concepts associated with English institutions and English political economy. We have tried to analyse below the difference between the nature of these rights as they existed in India and the character of rights which would follow from these concepts, in order fully to bring out the consequences of the application of those concepts to the determination of agrarian relations in the rural society of the Ceded and Conquered Provinces under the British rule.

NATURE OF PROPERTY IN LAND

The unanimous judgement of all contemporary British officers was that property in land as understood in England did not exist in India before the British rule.³ The Sudder Board of Revenue on Deputation wrote as follows as late as 1832:

¹ *Ibid.*

² *Ibid.*

³ "So little affinity is there between our European ideas of property, and those rights whereby land is in this country held, that our language does not furnish a word capable of expressing those simple yet curious combinations of tenures, which to avoid the misleading title of an estate, I shall denominate the "village communities". Minute by T.C. Robertson, dated 9 Sept., 1820 in *Selections from the Revenue Records of the N.W.P.*, (Allahabad, 1873), p. 2; also see Minute by Mr. Ross dated 5 Nov., 1825., in *Ibid.*, p. 210; George Campbell, *op. cit.*, p. 127. Maine, *op. cit.*, pp. 183-86. Letter of J. Strachey, dated 19 May, 1859, in *Selections from the Records of the Government of India, Home Department*, No. CLV, (Calcutta, 1879), p. 56.

The word property as applied to land in England, usually implies in the person possessed of it the right of regulating occupancy and appropriating rent. If it can be used with propriety only when both incidents attach to the substantive matter thus designated, the term is not strictly applicable to the interest in land possessed by the individuals who in common parlance are called proprietors in India.¹

The nature of property in land or in its produce in the Indian context can only be comprehended by keeping these two aspects of property distinct from each other.² This distinction is best expressed in the maxim current in Indian villages in those days: 'The land belongs to the zamindar, and the rent to the king.'³ This is, on the face of it, and according to the connotation of the word property in England, is a paradox, but in reality this was the concept of property in land or its produce in India. The extent of produce appropriated by the sovereign was a matter of his political judgement. But the fact remained that, in theory, the sovereign never claimed the right to property in the soil.⁴ In India, there was nothing analogous to the Roman conception of *Dominium*. The sovereign's power over the agricultural land in his kingdom, unlike in Europe, was not regarded as absolute and unlimited.⁵ He did not, in theory, create subordinate owners of land, because he himself was not, in theory, the supreme owner of the land.

'The truth seems to be that landownership in the sense that the capitalistic and colonial era has made us familiar with did not then exist as a distinct, integral right at all. The whole structure of the system, with its own concepts of rights and obligations was entirely different and must be studied by itself without the introduction of extraneous terms.' Irfan Habib *op. cit.*, Chapter IV.

¹ Minute of the Governor General, in *Revenue Selections (1822-1833)*, dated 20 Jan., 1832, para. 10, p. 354.

² 'This distinction, between the right of the cultivator to the soil itself, subject to the payment of the public revenue, immemorially limited by local, though ill-defined usage, and the right of the zamindar to the receipt of that Land Revenue from the cultivator, subject to his own payment to Government of a separate lower or reduced composition in lieu of it, called jumma, periodically adjusted between the zamindar and the State, which was never subjected to limitation by those who preceded us in the sovereignty of India, is of the greatest importance. For, simple as this distinction now appears to be, all who have waded through the vast mass of information now procurable, it is the want of a clear perception of these two very distinct rights, which has given rise to chief errors committed...' A. D. Campbell, "Paper on the Land Revenue of India", in Appendix to the *Report of the Select Committee on the Affairs of the East India Company, 1832, Vol. III—Revenue*, (London, 1853), p. 13.

³ *Fifth Report (Firminger's Edition), Vol. II, p. 739.*

⁴ '... in no official document or contemporary Indian authority (in the Mughal period) is a claim to ownership advanced on behalf of the King.' Irfan Habib, *op. cit.*, Chapter IV.

⁵ K. S. Shelvankar, *The Problem of India*, (London, 1940), p. 99.

Despite this clear view of the situation which one can reconstruct on the basis of facts contained in government records, the annals of British revenue administration and all subsequent writings of scholars, Indian and foreign, are full of inconclusive discussions on the issue as to 'who was the proprietor of land in India; the State, the intermediary, or the cultivator'? Since these discussions were conducted on the basis of no precise definition of what was meant by property in land, no conclusive opinion could be formulated on this issue.

It would, therefore, depend upon what precise meaning is given to property in land. If we identify proprietary right in land with the right to appropriate an arbitrary portion of the agricultural produce, (not necessarily limited only to economic rent or Producer's Surplus, but as much as may be exacted from the cultivator), with or without the right to regulate occupancy and cultivation, merely on the basis of a title (claimed in any form whether as the King, or as the landlord, or as the proprietor), then it would appear that property in land in India was vested in the State and was jointly shared with the intermediaries.¹ It is, however, important to note that a distinct separation between the rights of the State and those of the intermediaries had not taken place clearly in law for the latter to justify their right independently. Therefore, they exercised their rights merely by virtue of their being representatives or assignees of the State revenue. Whatever they claimed, they claimed in the name of the State and for the State.² But, in reality, a very large propor-

¹ 'The right of property... namely a right to realise and appropriate the whole of that portion of the produce of the soil which constitutes rent, ... that is a right which has been exercised by the ruling powers in India for a length of time.' Minute by A. Ross, *op. cit.*, p. 210.

'... if land tax is so high as to absorb the rent, it becomes in fact rent. In this view the State in India may be considered to have been the superior proprietor, in the same sense as any other proprietor who is entitled to receive customary rents, but does not cultivate or manage the land.' George Campbell, *op. cit.*, p. 131.

'Our predecessors indeed, whether Musulmaan, or Mahratta Governments, do not seem to have admitted as a principle any other general limit to the Government demand than the amount which the cultivators can afford to pay, the established hakimce hisseh or Government share appearing generally to exceed this limit; to leave a *rent*, therefore, to the proprietor of the soil, ... was no part of the revenue constitution of this part of India, theoretically considered.' Holt Mackenzie's Memorandum dated 1 July, 1819, in *Revenue Selections (1818-1820)*, p. 75.

Also see Marx, *Articles on India*, (Bombay, 1945), pp. 74-75.

² 'There can be no doubt that in the latter part of the eighteenth century, when British administration began, the different native rulers, who preceded us had asserted rights as the universal "landowners".' Baden Powell, *Land Systems of British India*, Vol. I, (Oxford, 1892), p. 217.

tion of the gross produce of agriculture was being collected and enjoyed by them for their own benefit and advantage.

Therefore, if we restrict ourselves merely to the view that property in land is vested in one who takes away the surplus of agricultural produce (irrespective of its name) merely on the basis of a title to land, it appears that the State along with its horde of intermediaries was exercising this right. This right had not yet been vested in individuals *de jure* and could be exercised only through the powers of the State, and with the assistance of its military force. The rights and privileges of intermediaries arose only from breach of privilege, abuse of State power, force or fraud. They were not backed by any legal sanction. During the later years of Mughal rule, a process of feudalisation was taking place but the British rule intervened before the process was completed. Probably, the distinct separation of the private rights of an individual from his political allegiance to the State would have been brought about after the completion of that process. But the British, by their intervention, brought about this separation in a manner which led to disastrous consequences, as we shall discuss in subsequent chapters.

On the other hand, if we identify proprietary right with the right of perpetual occupancy and cultivation on payment of fixed or variable rates of payment to the State or its assignees and officers, there is no doubt that the right to property in this sense was vested in the peasants.¹ In this regard there is complete discontinuity between the British and the pre-British periods² since, under the British, this form of proprietary rights and the classes in whom it was vested were sacrificed for the creation of the right to appropriate a portion of gross produce together with the right to regulate

'... The Native Governments never seem to have forgotten that the talookdaree tenure was the creation of the ruling power. What one Government had created, another might not unnaturally be deemed entitled to destroy, and they accordingly had apparently little scruple in dispossessing a Talookdar, and once dispossessed, the tenure generally seems to have gone for ever.' Holt Mac-Mackenzie's Memorandum dated 1 July, 1819, *op. cit.*, p. 89.

¹ '... there was frequently to be found in the village communities a privilege or property in the occupation and management of the soil, which constituted as strong a form of property as can anywhere be found short of our modern form of landed property... In the sense, then, of the right of holding the land subject to the payment of customary rents, I think that private property in land has existed in many parts of India since time immemorial.' George Campbell, *op. cit.*, p. 128.

² 'It may be noticed that the position of the peasant in relation to land (during the Mughal period) was almost the opposite of that of his descendant living under modern landlordism.' Irfan Habib, *op. cit.*, Chapter IV.

occupancy, which was vested in the intermediaries whose rights were now separated from those of the State.

An important characteristic of property in modern times is its transferability. If the transferability of property is not absolute and unlimited, the right to property is only a conditional right. But the right to transfer property is acquired in the course of historical evolution of economic societies.¹ The extent to which this right is exercised varies in different periods of economic history, depending upon the development of exchange and commerce. In this respect as well, there exists a complete discontinuity between the pre-British period and the period of British rule. The extent of transferability of landed property, both *de jure* and *de facto*, was considerably accelerated during the period of the British rule, as will be discussed in the subsequent chapters. The property in land was made inherently transferable and the right to transfer property in land was made inviolable which it was not in pre-British times. For this reason, it appears unnecessary to examine the nature of property in land in the pre-British period in terms of transferability or rights of alienation.

PROPERTY RIGHTS IN LAND OF VILLAGE ZAMINDARS

Keeping these distinct characteristics of property in mind, let us examine the nature of property in land vested in the village zamindars in the pre-British period.

The property of village zamindars was a form of privilege-property, subject to certain common burdens and obligations.² They had the right to cultivate particular fields or any other parcels of land, depending upon the contingency of redistribution of land periodically, with rights of perpetual occupancy subject to the payment of the State share of gross produce.³ These rights were inherited, or transferred by gift for temporary periods or in perpetuity and to a very limited extent also mortgaged. These could even be sold though subject to many limitations in actual practice, imposed by the State and the community.⁴ Inheritance of this

¹ George Campbell, *op. cit.*, p. 127; also see Maine, *op. cit.*, pp. 188-99.

² George Campbell, *op. cit.*, p. 127.

³ Holt Mackenzie's Memorandum dated 1 July, 1819, in *Selections from the Revenue Records of the N.W.P. (1818-1820)*, pp. 89-90; also see *Selections from the Papers of Lord Metcalfe*, edited by J.W. Kaye, (London, 1855), p. 36.

⁴ George Campbell, *op. cit.*, p. 143; also see Irfan Habib, *op. cit.*

right also was subject to the laws of the community and the religion of the family.

Apart from the rights of property of individual households in distinct parcels of cultivated lands, the village communities also had a joint property, which vested in all the village zamindars and other classes collectively. These rights were not individual or specific and yet they were substantial. They consisted in the customary rights over the village waste lands, gardens, ponds, fisheries, forests, pastures, etc., the benefits of which were enjoyed in common.¹ The rights in trees and their fruits were vested in those who planted them and their descendants, irrespective of the rights in land on which these might have been planted.² No doubt the appropriation of the produce of common lands was regulated by the village community through the village headman, but these rights were enjoyed by all members of the village community in common.

Thus, the property in the soil vested in the village zamindars, whether in their individual parcels of land or in the common lands, was neither unlimited nor vested in an individual. It was a totality of certain common rights to certain common privileges subject to certain common obligations. The rights of occupancy and cultivation were vested in the family and the right of each family was interlinked with that of another.³ Such interlinking arose because if a sharer died without heirs, his lands were at the disposal of the rest of the sharers of his division.⁴ Naturally, therefore, every household in the division or sub-division, was affected in such a circumstance. Moreover, a sharer could not dispose of his landed property by bequest or gift nor introduce a stranger without the general consent of the division or the sub-division, nor sell it until the sharers thereof in succession from each superior division have rejected it on the terms proposed.⁵ Thus, the right of the individual cultivator was limited by the rights of the family, of the village community, and of the State. Similarly, the right of the State was conditioned by that of the village community, which in its turn was nothing more than an aggregate of the various interconnected rights of different families. Moreover, these rights were subject to numerous

¹ *Selections of Revenue Records*, (Allahabad, 1873), pp. 5-6; also see *Selections from the Papers of Lord Metcalfe*, *op. cit.* p. 253; and George Campbell, *op. cit.*, p. 132.

² *Selections of Revenue Records*, (Allahabad, 187), pp. 5-6.

³ Thomas Fortescue, *op. cit.*, p. 75.

⁴ *Ibid.*

⁵ *Ibid.*

restrictions of law and custom and were based on prescription and usage.

As regards the transferability of these rights, it is proved conclusively by the contemporary records that the right of cultivating possession in distinct parcels of land vested in the village zamindars was both a heritable and transferable right.¹ Yet, in actual practice, such transfers were very rare.² The large share of gross produce appropriated by the State did not allow this right to be of much value except for deriving subsistence from it.³ The content of 'subsistence' also varied with the incidence of the State revenue. Moreover, due to jointness of property rights, land was not freely alienable except with the prior concurrence of the village community.⁴ In fact, the option of purchase had first to be offered to all such sharers as were entitled to it under the customary or inheritance laws.⁵ In cases where there were no heirs, or the owners had temporarily migrated, their lands were subject to the reversionary interests of the community. No strangers could be recognised as purchasers of the land in the community without its willing consent.⁶ For the same reason, even though mortgages were permitted with the tacit consent of the community, the mortgagee never had the right to foreclose the mortgage and had always to keep it open for equitable redemption.⁷ If the debt was not paid, he could not take possession of the land but only realise it gradually from the residual produce left with the cultivators after payment of the State revenue.⁸

¹ 'The village zemindars were the immemorial occupants of the soil; they cultivated from generation to generation. They gave, sold, and mortgaged their lands at will,' Holt Mackenzie's Memorandum dated 1 July, 1819 in *Revenue Selections (1818-1820)*, p. 89; also see *Metcalf Papers*, pp. 36-40.

² George Campbell, *op. cit.*, p. 143; also see *Note on Land Transfer and Agricultural Indebtedness in India*, where we read: 'Sales and mortgages of land were familiar to both Hindu and Mahomedan law. . . At the same time, the exercise of this right to transfer was under native rule exceedingly restricted.'

³ George Campbell, *op. cit.*, p. 143: 'All or nearly all the profits of immovable property went to the State; and under the circumstances it is not surprising that there was no competition for possession of landed property.'

⁴ 'The system of joint ownership was in the pre-annexation period far more powerful than it has since become, and so long as property is owned in common by groups of individuals either as a family or as a village community, the difficulty of effecting a transfer is much enhanced.' *Note on Land Transfer*; also George Campbell, *op. cit.*, p. 13.

⁵ Thomas Fortescue, *op. cit.*, p. 76.

⁶ *Ibid.*

⁷ 'Mortgages are ever open to equitable redemption, and the mortgagee has no power to foreclose.' Thomas Fortescue, *op. cit.*, p. 77.

⁸ 'The seizure and sale of land for private debt was wholly and utterly unknown—such an idea had never entered into the native imagination.' George Campbell, *op. cit.*, p. 144; also see *Note on Land Transfer and Agricultural Indebtedness in India*.

As regards rights in the common lands, they went with the ownership of lands or the membership of the village community and were not alienable separately.

NATURE OF TENANCY AND RENT

As there was no property in land in India in the sense in which it was understood in England, there was no 'tenancy' or 'rent' according to the English connotation of these terms.¹ A tenant is one whose tenure in land is regulated by another person, and who cultivates the land at the will of another for payment of rent, i.e., the surplus of gross produce remaining after defraying the charges of cultivation and ordinary profits of stock.² In this sense, the village zamindars were not the tenants of the State since the right of regulating the occupancy of land never attached to the State.

As regards resident and non-resident ryots in the village community, their status too was not exactly the same as that of a 'tenant' under a modern landlord. The resident ryots, like the village zamindars, had also the right of perpetual occupancy and were not liable to be evicted, so long as they paid the State share of the produce according to customary rates.³ In this sense, their occupancy was not much different from that of village zamindars since they paid more or less equal share of gross produce to the State except for the difference determined by the customary variations in their rates of assessment⁴ according to the customs of the village community. Their rights were also heritable but not transferable. This means that they could occupy and cultivate the land in their possession from generation to generation but could not alienate it by gift, mortgage or sale.⁵

¹ '... it is in the highest degree improbable that the various layers of the little society were connected by anything like the systematic payment of rent ... the fund out of which rent comes has not hitherto existed or has barely existed, and hence it has not been asserted ... that rent (as distinct from Government revenue) was paid for the use and occupation of land before the establishment of the British empire.' Maine, *op. cit.*, pp. 178-80; also p. 183. George Campbell, *op. cit.*, pp. 136-38.

² T. R. Malthus, *The Nature and Progress of Rent*, (London, 1815), p. 2.

³ Metcalfe Papers, *op. cit.*, pp. 225-60; also George Campbell, *op. cit.*, p. 138.

⁴ 'These cultivators (resident ryots) are little distinguishable from the proprietors (village zamindars) in other respects except that they do not necessarily acquire rights of ownership.' Thomas Fortescue, *op. cit.*, p. 78.

⁵ '... the cultivating ryot, not belonging to the brotherhood of zamindars, seems distinctly to have been viewed as the cultivator of the lands of another. He appears to have nowhere claimed more than the right of occupying the fields

Moreover, they were regarded as 'tenants' of the whole community or its sub-divisions and not of any individual family. The payments received from them were generally utilised by the community as a whole for discharging the obligations to government and were not received as rental income of individual households. And thus, between individual village zamindars and resident ryots, there never was a relationship as that of a landlord and tenant.¹

As regards non-resident ryots, their tenure was temporary and they cultivated from season to season. But they also paid nothing more than the customary share of the gross produce payable as State revenue. Further, they too were regarded as the 'tenants' of the community or the sub-division whose lands they cultivated. This was again because the payments received from them were also utilised for the discharge of government assessment on the village. In fact, the rates levied on them initially were the lowest since they had to be induced to undertake cultivation of village lands on favourable terms. And whatever could be obtained from them was regarded as an advantage to the community since it enabled them to reduce the incidence of revenue on their village, which was heavy in comparison to the means of the village zamindars and of the resident ryots.²

It is important to note, however, that all village zamindars, whether in or out of possession, were entitled to a small allowance known as the 'zamindari *rusoom*' (at the rate of 5 per cent of government revenue and at the rate of one or two annas per bigha on money-crop lands) by virtue of their right of property in the soil.³ To those who were out of possession, this sum was paid by the occupants of their lands—whether resident or non-resident cultivators, or other sharers who may have taken it in their possession during the absence of the zamindars—in addition to their normal share of the total government assessment. But to those zamindars who were in possession of their lands, this allowance was allowed by the State as a deduction from the revenue payable. The receipt of this allowance

he cultivated, and so long as he continued to cultivate them, a right hereditary, but not apparently transferable by sale, or gift, or mortgage, nor resumable if once vacated.' Holt Mackenzie's Memorandum dated 1 July, 1819, in *Revenue Selections (1818-1820)*, pp. 89-90.

¹ A. Phillips, *Tagore Lectures*, 1876, cited in *Report of U.P. Zamindari Abolition Committee*, p. 69.

² See A. D. Campbell, "Paper on the Land Revenue of India", in *Report of the Select Committee, 1832*, Vol. III, (*Revenue*), Appendix, p. 11.

³ Holt Mackenzie's, Memorandum, dated 19 Oct., 1826, *op. cit.*, p. 87.

either from the State or from the occupants of the land did not imply the right to regulate the occupancy of the tenant. Nor can it be considered as a kind of private rent since it was such a small fraction of the total gross produce of the land. Rent, properly speaking, can be said to be enjoyed only when a substantial share of the produce—in fact all such portion of the gross produce which is left after meeting the expenses of cultivation and ordinary profits of stock—are realised by the owner of the land. And the small fraction of the gross produce levied as zamindari *rusoom* has not been regarded in any sense as rent by the contemporary officials, as already mentioned.¹

However, the existence of zamindari *rusoom* as a customary form of payment in acknowledgement of the right to property possessed by village zamindars proves that the differential rates of assessment levied by the State on different classes had produced certain stratified rights and obligations within the village community which were tending to establish the superiority of the rights of village zamindars. These rights had not yet crystallised into absolute rights of property of individuals but were certainly regarded as superior to the rights of other classes of cultivators.

It is doubtful whether these were very valuable rights. Due to the frequent increases in assessment, these were always threatened with extinction. Nevertheless, the superiority of these rights was established in fact.² It was reflected in the fact that even if the zamindar was absent for a long time and a person was in occupation of his land for a long time, that did not imply defeasance of the zamindar's right to property in the soil, since he always remained entitled to resume possession of his land.³

(iii) *Integral Relationship of the Native Revenue System and the Characteristics of the Village Organisation*

When we study the principles of the Indian land revenue system and the characteristic features of village organisation in the period preced-

¹ See Maine, *op. cit.*, pp. 178-79.

² Holt Mackenzie's Memorandum dated 1 July, 1819, *op. cit.*, p. 90.

³ 'No length of occupancy by another nor of absence by an inheritable owner is a defeasance.' Thomas Fortescue, *op. cit.*, p. 74.

'... neither the furthest exile nor the longest absence dissolved the tie that bound them (the village zamindars) to the fields of their ancestors, nor destroyed the right to resume possession when they returned.' Holt Mackenzie's Memorandum, dated 1 July, 1819, *op. cit.*, p. 90.

ing the British rule, we find a close harmony between these principles and the structure of the village communities. First, the large share of gross produce taken away by the State from year to year constantly drained away a substantial part of the surplus agricultural produce. This would mean that the village community was annually left only with such portion of the produce as was sufficient for the bare subsistence of its members and cattle, and requirements of seed, etc.¹ The village community was thus virtually a self-sufficient economy at a subsistence level mainly because of the large share claimed by the State as its revenue.² In fact as the State share tended to increase, the degree of self-sufficiency of the village must have increased correspondingly.

Secondly, the heavy incidence of State demand must have also checked the growth of large inequalities of property and incomes amongst the members of the village community, except such which arose from the differential rates of taxation applied to different classes of persons. Since every inch of cultivated land was subject to assessment in accordance with its area and yield and not much was left to the community beyond bare subsistence, no large inequalities could arise as a result of unequal and inequitable taxation. There were no large disparities in holdings of land as well. And, whatever inequalities must have arisen from the operation of inheritance laws and the varying labour resources of individual households must have been frequently levelled down by the growing revenue demands of the State. Further, such a situation must have been conducive to a regime of mutual co-operation³ and flexibility in internal adjustments in the village in respect of land-holdings or cultivation, particularly when the nature of property in land was such as has already been described. The system of periodic redistribution of landholdings in Bundelkhand was only an evidence of such flexibility of internal economic adjustment in the village. Where

¹ Maine, *op. cit.*, p. 119.

² Its self-sufficient character was further reinforced by the presence of its own group of artisans and village servants who supplied the village community with nonagricultural goods and services from within the village itself. However in so far as was the State revenue to be paid in cash, the village would develop links with the market as well. Thus self-sufficiency should not be understood to mean a complete absence of outward flow of produce from the village to the market. However, since the cash obtained by the sale of produce was paid at State revenue, the inward flow of goods into the village was extremely limited. Thus despite self-sufficiency, the Indian village was not a closed and isolated unit of economic organisation.

³ Shelvankar, *op. cit.*, p. 95.

such practices had gone out of use, there arose other modes of readjusting government assessment on individual households in accordance with their capacity to pay.¹

The heavy incidence of government assessment was also probably responsible for the peculiar forms of property in land and of tenancy that arose in the village communities. Since the residual share left by the State to the cultivators was uncertain, or at best certain only for a limited period till a succeeding ruler raised it, the only forms of property in land that could arise were those of cultivating possession with perpetual occupancy which was necessary to ensure the cultivation of land in those days of labour scarcity. The extraction of private rent and establishment of regular landlord-tenant relationships was hardly possible on the basis of such a revenue system as we have seen in Chapter II. That is why the transfers of land were so infrequent and were occasioned only by the absence of zamindars or their inability or unwillingness to cultivate the land. These transfers were not determined by considerations of private rent. Frequent changes in occupancy were not motivated by the search for higher rents.² Such motivation had no scope because, for one thing, government assessment was heavy and, for another thing, there was plenty of wasteland available for cultivation.

Thus, the absence of a real cause of conflict of economic interest in land amongst the members of the village community appears,³ paradoxically, to be the chief explanation of its internal harmony and stability, which was largely a consequence of the principles of the Indian revenue system. Whatever conflict of interest there was, it was between the State and its intermediaries, on the one hand, and the village communities on the other.⁴ But within the village community, there were no such conflicts of interests.

The conflict between the village community and the State became serious only when the latter ceased to realise the need for expansion of cultivation and was actuated by short-sighted motives of maximising

¹ For different modes of such adjustment, see Thomas Fortescue, *op. cit.*

² '... there never was any system of interference with the immediate possession of soil; no letting it by competition to the highest bidder, or anything of that kind.' George Campbell, *op. cit.*, p. 131.

³ '... this simple state of things presented no conflict of rights, no difficult social problems which could not be solved by the Headman assisted by assessors of his own choice.' C. D. Field, *op. cit.*, p. 417.

⁴ 'None of the major conflicts in Indian history had for its object the exercise of rights *within* the village, but the exercise of rights *over* the village. They were conflicts between overlords of various grades for the right or power to get payment from the peasant, not to seize his land.' Shelvankar, *op. cit.*, p. 102.

the current revenue. And whenever it happened, the internal harmony and unity of the village community was somewhat disturbed. Even then, the principles of Indian revenue system were such that despite all oppression by the State or its intermediaries over the villages, it did not lead to the establishment of mutually antagonistic interests in land within the village itself.¹

ECONOMIC GROWTH IN VILLAGE COMMUNITIES

It may be asked, if there were no landlord-tenant relations and only a limited impact of the forces of the market on the village community (as it was self-sufficient), how did the village community manage to survive and even grow? In the absence of any compulsion exercised by the State, what was the incentive for the more or less equal members of the village communities to extend or improve cultivation, except the pressure of increasing numbers or the relative scarcity of land? How was it possible for the State in India to enlarge its revenues except in so far as it was due to the growth of the working force in agriculture?

It may be held that there was hardly anything conducive to economic growth in the structure and working of the village community. But this inference would appear to be contrary to historical evidence. We know for certain that the volume of commerce and the revenue resources of the State underwent enormous expansion during the Mughal period.² As this expansion of revenue resources could not have been secured exclusively by increasing the State demand, it is reasonable to assume that cultivation did expand, a fact which finds support in the seventeenth century travellers' accounts. How was such economic growth possible in the context of self-sufficient village communities as the primary units of economic life?

The answer to this question lies in the manner of application of certain elementary principles of the Indian revenue system by the Indian rulers. They devised very simple methods of revenue concessions calculated to provide sufficient incentives to the cultivators to extend cultivation on wasteland and to improve cultivation on already occupied land.³

¹ Shelvankar, *op. cit.*, pp. 94-95.

² Irfan Habib, *op. cit.*

³ 'It must not be supposed that the customary rent consisted of a uniform share of the produce levied equally on all crops and under all circumstances. On the contrary, the system was to a remarkable degree adapted to the circumstances, with much regard to principles which we should call political economy.' George Campbell, *op. cit.*, p. 132.

One of these methods, known as the *zabti* system of assessment (already discussed), was to lay down the maximum of assessment for each crop for a long period so that if the outturn increased the State did not claim a share of the increased output for a number of years.¹ During this period, all the benefit of larger output went entirely to the cultivators. According to Akbar's ten-year settlement of land revenue, fixed rates for each crop were laid down on the basis of estimates of average yields of different qualities of soil and on the basis of average prices over a period of ten years.² Suppose the average produce of three fields of first, second and third quality was respectively 15, 12 and 9 maunds. If the State's share was one-third, then 5, 4, and 3 maunds were laid down respectively as the assessment on each of these fields. The value of these shares, computed according to the average prices for last ten years was fixed as the assessment on these fields. Now, if the cultivators raised their output to say 20, 15 and 11 maunds in these fields, they were obliged to pay only the fixed amount, i.e., the value of 5, 4, and 3 maunds respectively and were permitted to keep the whole of the increased output.

Again, under the *nasq* method of assessment, revenue was levied only on a given area on the basis of past years' assessment, and no revenue was to be levied on additional area cultivated over and above what was cultivated in previous years.³

Another method adopted to promote cultivation of valuable crops was to lay down differential rates of assessment on different crops and assess a lower proportion in value terms in the case of more valuable crops. For instance, in the above example, let us suppose that crop was wheat and its price on an average was Rs. 5 per maund. The values of gross produce on the three fields of different quality land would be Rs. 75, Rs. 60 and Rs. 45 respectively and the assessment on them would be Rs. 25, Rs. 20 and Rs. 15 respectively. Now, suppose these lands were sown with cotton the price of which was Rs. 10 per maund. In this case, the value of gross produce would be Rs. 150, Rs. 120 and Rs. 90 respectively. Now, if the rates of assessment for these fields were fixed on the basis of an average yield of grain and not cotton, it is evident that the cultivator would benefit by sowing more valuable crops like cotton since he

¹ R. M. Bird's Minute dated 25 Sept., 1832, *Revenue Selections (1822-1833)* pp. 429-30.

² P. Saran, *Provincial Government of the Mughals*, (Allahabad, 1941), p. 319.

³ Irfan Habib, *op. cit.*

would be able to retain a larger proportion of the total value of the gross produce. We have seen in the preceding chapter that no crop-rates were laid down for such crops as cotton, sugarcane, sun-hemp, turmeric, betel, etc., and assessment on them was fixed by taking the average yield of food crops on those lands.

It is important to note that while there was differential incidence of assessment in the case of different crops, there was also differential incidence in the case of the same crop grown on lands of different qualities and endowed with different facilities of irrigation and marketing and facilities due to other local circumstances.¹ Thus, wheat grown on poor land was assessed at a lower rate than wheat grown on richer soils. Crops which required more intensive labour and greater expenditure were also charged a lower rate. Assessment of land devoted to such crops as sugarcane, cotton, tobacco, etc., was in terms of fixed money-rates per *bigha*² after assessing the average produce of grain on such land and converting the grain assessment into money assessment at average prices. These money-rates remained fixed till they were again revised by a succeeding ruler.

As regards wasteland, very low rates were levied in the first and second year of its reclamation. It was only in the third year that the full rate applicable to the corresponding quality of soil was levied on such reclaimed land.³ Thus, by leaving the fruits of industry on wasteland to the cultivators in the first two years of reclamation, the State ensured continuous expansion of cultivation.

However, though the system of differential rates provided incentives for expansion and improvement of cultivation, it also prevented discrimination in the distribution of the revenue burden between different cultivators, particularly in favour of cultivators of richer soils or of valuable crops and against the cultivators of poor soils or of inferior crops. This was ensured firstly by providing for a higher revenue rate for the same crop grown on different qualities of soil and secondly, by providing different revenue rates for different crops grown on the same quality of soil. Since the average produce of a crop on better quality land was higher, it was natural that the

¹ George Campbell, *op. cit.*, p. 132.

² *Ibid.*

³ The British authorities also adopted the same practice in their early regulations, which must naturally have been adopted from the then prevailing practice. See Richard Clark, *Bengal Regulations*, Vol. I. Sec. LIII, Clause Fourteenth, Regulation XXVII, 1803, p. 660.

cultivator of the richer soils paid more than the person who cultivated the same crop on poor soils. Again, if a person raised a more valuable crop on the same quality of soil, he paid a higher rate according to the crop that he grew. If this was not done, and differential revenue rates were fixed only for different qualities of land irrespective of the crops grown on them, soon the cultivation of high quality lands, on which the average produce would be higher and which would therefore be assessed at a higher rate, would be given up and poor quality lands, on which the average produce would be lower and which would be lightly assessed, would be taken up for cultivation. The cultivators of rich soils and valuable crops would have preferred to raise more valuable crops on poor quality lands only, which would have hardly been conducive to the growth of agriculture.¹

Thus, the rates of land tax were so devised that all cultivators alike, rich or poor, had incentives in one way or another for improving agriculture and extending the cultivated area, and yet the burden of revenue assessment was evenly and equitably distributed according to the means and prosperity of different grades of cultivators.²

Another method by which the growth of the village economy was sought to be promoted was the adoption of different rates of assessment for different grades of cultivators according to differences in their status in the hierarchy of the village community.³ For example, lands cultivated by the village zamindars were assessed at a lower rate.⁴ The lands under the personal cultivation of village headmen who were responsible for collection of revenue and managing the wasteland were assessed at a still lower rate.⁵ Lands under resident ryots were assessed at a slightly higher rate, while those under *pahi-kasht* ryots at a much lower rate since the latter were an important agency through which extension of cultivation occurred.⁶ Further, certain types of lands, the benefits of which were enjoyed by the community as a whole, such as gardens, fisheries, ponds, pastures and forests, etc., were left untaxed.

¹ See *Metcalf Papers, op. cit.*, pp. 264-68.

² Irfan Habib, *op. cit.*, Chapter VII, Sec. 7, 'Methods of Relief and Agricultural Development'.

³ Thomas Fortescue, *op. cit.*

⁴ *Ibid.*; also Holt Mackenzie's Memorandum dated 19 Oct., 1826, *op. cit.*, p. 88.

⁵ *Ibid.*, p. 108.

⁶ *Ibid.*; Thomas Fortescue, *op. cit.*; C. D. Field, *op. cit.*, p. 419.

The adoption of differential rates of assessment for different classes in the community and the plan of realising the public assessment from each person proportionably to his means so as to render every species of property or profit liable to an even contribution¹ was conducive to the economic growth of village communities as organised units of the rural economy. In the economic environment of those days in which the collective effort of groups of people was vitally necessary to reclaim the wasteland and extend the area under cultivation in the face of numerous hazards of nature,² the absence of large inequalities of property and wealth (which would have followed a discriminatory taxation policy) and of sharp conflict of economic interests in the village was of positive advantage for the State as well as for the village community. But, at the same time, a certain degree of stratification of rights and privileges had to be sustained to maintain an organised and stable social life as well as to provide incentives for economic improvement by the various classes of occupants of land. The differentiation of claims which had arisen on the basis of original occupancy, custom, usage and tradition had to be respected in the interest of the continuance of the village communities.

Thus, the Mughal rulers, on the one hand, by providing economic incentives through their taxation policy, and on the other hand, by keeping the growth of sharply antagonistic interests in land and produce in check by an equal and equitable taxation, helped to maintain the internal harmony, stability, and co-operative character of the village communities and thus ensure their economic growth. Not to let inequalities in wealth grow beyond a point, and yet to maintain a certain degree of inequality for providing economic incentives appears to have been the main strategy of pre-British Mughal rulers in the sphere of agricultural organisation. They succeeded in so far as they sustained the internal solidarity and vigour of the village communities which enabled the latter to survive the political turmoil and changing fortunes of the continuous succession of dynasties. But, whenever the State ignored or violated its own principles, the delicate balance within the village community was seriously disturbed. Under strong external pressures, slow changes were caused in the internal socio-economic relations in

¹ Thomas Fortescue, *op. cit.*, p. 97.

² '... urgent and necessary conditions of village life imposed on the peasantry a regime of cooperation that was a bar to the growth of sharply antagonistic or irreconcilable private claims.' Shelvankar, *op. cit.*, p. 95.

the village community which created the conditions for their eventual disintegration. Towards the end of the eighteenth century, it had already been subjected to many such pressures when the severe impact of the British revenue administration set in motion the process of complete disintegration of its structure. This process will be analysed in the subsequent chapter.

IMPACT OF MUGHAL REVENUE SYSTEM ON THE VILLAGE COMMUNITY ON THE EVE OF BRITISH RULE

The modifications in the functioning of the village communities in the later years of the eighteenth century were due mainly to the political events which preceded the acquisition of the country by the British. The Indian Governments during the period of decline of the Mughal power were inclined to pitch their land revenue demand to the maximum level. During these troubled times, the *chaudhris* and *qanungos* of *parganas* (groups of villages) as well as other individuals with wealth and influence succeeded in procuring from time to time the superintendence of large *taluqs*, consisting of numerous villages, for the revenue of which they became responsible. Those *taluqs* were acquired in various ways, some by grants from the State, or through the influence of local officers, others by fraud or force.¹ The more powerful and wealthy landholders, anxious to increase their possessions, extorted from their weaker neighbours assignments of property. The latter, from fear and, often, hope of personal protection, found it expedient to acquiesce in a temporary sacrifice of their rights and were content to retain a footing in their own villages even in a subordinate capacity.² Thus, in large areas of the Ceded and Conquered Provinces, the village communities were gradually subordinated to intermediaries that had already existed or sprung up during this period.

Both for the intermediaries and the government officers dealing directly with the villages, the only recognisable persons to deal with were the village headmen without whose assistance and responsibility, no revenue could be realised. Hence the former tried every device to obtain the village headmen's consent to as large an assessment as possible.³ The village headmen were rewarded

¹ *Selections from the Revenue Records of the N.W.P.*, (1873), p. 160.

² Thomas Fortescue, *op. cit.*, p. 117.

³ *Ibid.*, p. 117.

both by the community and the government separately for their services. Their specialisation in the art of preserving the internal order of the village and adjusting its external relations gave them a degree of knowledge, skill and power which they could exploit to their own advantage, if they wished, to outwit both the village community and the ruling power.¹ The ruling power, on its own part, was anxious to secure their co-operation in all possible ways, by increasing the rate of *malikana*, by allowing them more concessions in rates of assessment or a large proportion in *sayer* (miscellaneous cesses and *abwabs*) collections. On the other hand, the village zamindars expected them to display the most devoted zeal for serving the village even to the extent of suffering imprisonment, physical chastisement and starvation. Thus, the village headmen who frequently faced very trying situations adjusted themselves to them in various ways.² In some places, they were equal to the responsibilities of their position. They gave an exaggerated picture of the poverty of the village and the determination of the community to offer resistance.³ They concealed the extent of the real resources of the village and understated the extent of cultivation and the total agricultural produce. (It was during this period that the papers of *patwaris* and *qanungos* ceased to reflect the real state of resources in different villages and fictitious measures of land were adopted to express the distribution of landholdings in the village.) In this way, the village headmen tried to ensure the best terms for the villages.

In other places, they utilised their position for their own benefit. They imposed on their co-parceners a higher *jama* (assessment) than they had engaged to pay or they agreed to take from each sharer a certain customary proportion on the principle of *batai* (division of crops) and enjoy the difference.⁴ When acting under the intermediaries, they were generally allowed a slight increase in their *malikana* for their willingness to collect larger revenue. Whenever they refused to co-operate, the intermediaries replaced them and tried to induce other sharers to engage for revenue or even deputed their own men from other areas to make collections. For fear of oppression, the traditional headmen even stepped down

¹ *Ibid.*, p. 118.

² *Ibid.*, p. 117; also Moreland, *op. cit.*, pp. 164-65.

³ Thomas Fortescue, *op. cit.*, p. 117.

⁴ Thomas Fortescue, *op. cit.*, p. 118; also *Selections from Metcalfe Papers*, p. 42.

to let others undertake collection, thus gradually allowing the control of village management to pass into the hands of strangers.

There were even areas where the village communities and their headmen, not seeking the protection of intermediaries, organised themselves and resisted the power of government officers. They built mud forts, collected arms and fought until they were forced to desert their lands.¹ It is because of these unsettled conditions that the British officers, during the initial period of their rule, met severe opposition in districts like Aligarh from the Gujar chiefs. They found a very large proportion of the population in these villages engaged in military life rather than in agriculture.²

The main consequence of these various developments was thus two-fold. Firstly, there was a great increase in the power of intermediaries over the villages, though only in limited areas such as the districts of Kānpur, Allahabad, Gorakhpur and Farrukhabad. Secondly, there was an increase in the relative power of the village headmen over their co-parceners. The modifications in the internal relations of the village communities depended on the strength of pressure exercised by these persons. The demand for more revenue was met partly by raising the rates of assessment on resident ryots or by leasing out the wastelands to *pahi-kasht* cultivators. The first charge on the proceeds of these lands was government assessment and what remained was contributed by the village zamindars according to their respective means. The pressure of heavy assessment led to difficulties in allocating the share of the State revenue among different landholders, the squeeze being ruinous to everybody concerned. It was no longer possible to maintain differential rates of assessment allowed to different classes and all distinctions of rank and status tended to be blurred.³ The zamindari *rusoom* allowed to village zamindars was absorbed in the revenue. The customary rights of pasturage, forests, fisheries, gardens, etc., became subject to imposition of cesses. Thus, injury was caused to the internal harmony and balance of the village communities by the misrule of the pre-British rulers.

Nevertheless, it may be noted that there had not yet been any

¹ See "Proceedings of the Board of Revenue", relating to districts Aligarh, Agra and Saharanpur during the years 1803 to 1807 in Central Record Room, Government of Uttar Pradesh, Allahabad; also Thomas Fortescue, *op. cit.*, pp. 117-19.

² *Ibid.*

³ Holt Mackenzie's Memorandum dated 19 Oct. 1826, *op. cit.*, p. 87.

fundamental changes in the basic rights and privileges of the village communities. The changes had mainly affected the relative incomes of the different classes marginally in some villages, and more or less in others. There was some encroachment on the common rights of the village communities by the government officers, intermediaries or the village headmen. But the rights and interests of individual households in their distinct fields had not yet been disturbed.¹ Even the common rights were well-understood and respected and the abridgement of these rights was considered merely temporary. The customary rates of assessment were well-known. The power of the intermediaries of the government officers had not yet crystallised into absolute control over the village communities. In fact, it had hardly filtered down to all the layers of the village economy.² In view of the strong bonds that subsisted between the village headmen and the other parceners, there were probably not many serious infringements of property rights within the villages in such a short period. It was left for the British rule to complete the process that had only begun in the later years of the Mughal rule, viz., the process of complete disintegration of those 'myriads of industrious, patriarchal, idyllic village communities'.³

¹ 'Notwithstanding the numerous revolutions which have taken place in this part of India, the rights of the village zameendars have generally been held sacred—more sacred, it seems to me than any other property—and though numerous sorts of oppressions have been devised, it does not appear that any oppressor, generally speaking, has presumed to meddle with these rights.' *Metcalf Papers, op. cit.*, p. 37.

'Notwithstanding, however, these successive revolutions, the village maliks, the most valuable part of the population, appear up to the acquisition of the country, by the British government, to have remained undisturbed.' *Revenue Selections* (1873), p. 160.

² '... system of village property was yet in being in the Upper provinces when they fell under our dominion; for the farmers and officers of former Governments, though arbitrary and unmerciful in their exactions, seldom had the hardihood to attempt to interfere with the state of real property. The village community was thus complete ...' Minute by the Governor General (Lord Hastings) dated 21 Sept., 1815, in *Revenue Selections* (1818-1820), p. 329.

³ Marx, *Articles on India*, pp. 24-25.

Land Revenue System and Administration in the Early Years of British Rule

THE CEDED and Conquered Provinces came under the British administration on 10 November, 1801 and 30 December, 1803 respectively. We are not directly interested in the political background which preceded their cession and conquest in favour of the East India Company, since these circumstances in no way influenced the subsequent changes in the land revenue administration of those provinces. But, for a proper understanding of the subsequent period, it is important to keep in view the various trends in the agrarian life of these territories in the years immediately preceding the British rule, as discussed in the earlier chapters. The revenue administration was virtually in the hands of *amils* who were more or less farmers of revenue. The power of various intermediaries—like the *rajās*, *taluqdars* and other classes of persons entrusted with the collection of the State share of the produce—over the villages was growing. The village communities were being subordinated gradually to their authority and were losing direct touch with the State. The village headmen were beginning to assume the character of revenue farmers, and distinctions of rank and status within the village communities were being gradually levelled down under the pressure of heavy revenue assessments. It is in these circumstances that the British rule was established.¹

¹ 'The country was in chaos. There was no kind of administration. The people were most cruelly oppressed by the Amils, kanungoes, and the Commandants of the Vazier's troops who helped the Amils in the revenue collections.' *Henry Wellesley's Correspondence (1801-1803)*, General Editor, G. N. Salletore, p. ii; also see Moreland's *Agrarian System of Moslem India*. Moreland describes in Chapter VI that the 'chiefs and farmers (of revenue) alike had been busily engaged in extending their spheres of influence, bringing into their dependencies, by fair means as well as foul, the peasants of villages who wanted only to be left alone, and were ready to pay the king's share to anyone who would undertake the duty of protecting them against interference from outside.' p. 158.

Chronologically, these provinces came under the British rule soon after the declaration of Permanent Zamindari Settlement in Bengal in 1793, and before the formation of the 'Ryotwari Settlement' by Thomas Munro in the southern Ceded Districts under the Madras Presidency, between 1801 and 1807. In the intervening period, the premises and principles of the Bengal Permanent Settlement dominated the minds of the British authorities both in India and in England. Consequently, they formed the foundation of the land and revenue administration for the new territories.¹ The general soundness of these principles in abstract theory and the authoritative approbation which they received from the Supreme Government at Calcutta and the authorities at Home, for a long time 'precluded the agitation of any question' as to their soundness.² Thus, they were mechanically adopted in the Ceded and Conquered Provinces soon after their annexation. Therefore, before we can form a critical estimate of the land and revenue administration of these provinces, we have first to review the main economic objectives and consequences of the Bengal Permanent Settlement.

(i) *Bengal Permanent Settlement*

It is not within the scope of our study to analyse the Bengal Permanent Settlement in all its diverse aspects. We shall confine our attention only to its economic objectives and principles, with particular reference to the nature of agrarian relations it sought to establish in the villages.

The Permanent Zamindari Settlement of land revenue in Bengal, according to James Mill, was a measure adopted on the basis of 'abstract theories, drawn from other countries, and applicable to a different state of things'.³ Its main principles were derived from the context of English institutions and the English Political

¹ '... the whole tenor of the correspondence which passed at the period seems to show that the object of Government was to assimilate the system in the Ceded and Conquered Provinces with that pursued in Bengal...' Holt Mackenzie's Memorandum, dated 1 July, 1819, in *Revenue Selections (1818-1820)*, p. 60.

² "Observations of John Sullivan" in the *Report of the Select Committee on East India Affairs, 1832*, Vol. III—*Revenue*, (London, 1853), Appendix, p. 50.

³ 'The authorities which constituted the Indian Government made it their profession, and their boast, that they were not directed by "abstract theories, drawn from other countries, and applicable to a different state of things," and the fact was, that almost every step which they took was the result of an "abstract theory", commonly drawn from something in their own country...' James Mill, *History of British India*, Vol. V, (London, 1848), Fourth Edition, p. 488; also see Karl Marx, *On Colonialism*, (Moscow, 1959), pp. 164-65.

Economy.¹ Its main architects were 'English aristocrats' and their 'aristocratical prejudices' determined its basic features.²

As is well known, the principal economic feature of the Bengal Permanent Settlement was that it sought to create a landed aristocracy in the country by conferring a right of private property in the soil on the zamindars of Bengal. This right of private property vested in the zamindars almost similar rights and privileges over their under-tenures as those enjoyed by a landed proprietor in England. In it were combined the right to collect rent as well as the regulation of occupancy of all other tenures existing on the land. Moreover, this right was made transferable both by acts of the State and of the individuals possessing it. The State could transfer this right by open auction in the market for arrears of revenue³ while the zamindars could do so by sale, mortgage, or gift.⁴ The State revenue on the lands included in the zamindari estates was declared as fixed in perpetuity.⁵ But the demands of the zamindars on the cultivators were left undefined⁶ and unspecified in the belief that they will be regulated by the mutual interests of the zamindars and the cultivators and by the ordinary laws of demand and supply operating in the case of land and labour respectively. A mild provision was kept for the intervention of the government, if and when necessary, to ensure the security of the rights and privileges of the cultivators,⁷ but it was not used in their favour before 1822. In fact, all the laws passed after 1793 until that year sought to strengthen the powers of the landlords over their tenants.⁸

The Bengal Permanent Settlement had several economic objectives, both long-term and short-term. The most important long-term

¹ 'They (the British administrators in India) had nothing to guide them to a conclusion except the English forms of property in land; they probably accepted unreservedly from the lawyers of that day the belief that the system actually obtaining in England was not only the ancient system of the country but that it was semi-sacred.' H. S. Maine, *Village Communities*, p. 182.

² James Mill, *op. cit.*, Vol. V, p. 492.

³ Sec. VII (Article Sixth), Regulation I, 1793 in *Bengal Regulations*, *op. cit.*, Vol. I, p. 3.

⁴ Sec. IX (Article Eighth), Regulation I, 1793 in *Bengal Regulations*, *op. cit.*, Vol. I, p. 5.

⁵ Sec. III (Article Second), Regulation I, 1793, *Ibid.*, p. 1.

⁶ See A. D. Campbell, "Paper on Land Revenue of India" in *Report of the Select Committee on East India Affairs, 1832*, Vol. III—Revenue, Appendix, p. 15; also see Holt Mackenzie's Letter to the Committee in *Ibid.*, p. 298; also see Minute by Lord Hastings dated 21 Sept., 1815, para. 146, in *Ibid.*, Appendix, p. 84.

⁷ Sec. VIII (Article Seventh), Clause First, Regulation I, 1793, in *Ibid.* (*Bengal Regulations*), p. 3.

⁸ See A. D. Campbell, "Paper on Land Revenue of India", *op. cit.*, p. 15.

objective, apart from deriving a stable revenue regularly, was to promote the extension of cultivation to the vast stretches of wasteland and thereby to promote the trade of the province.¹ About one-

¹ See Preamble to Regulation II of 1793, which reads as follows: 'In the British territories in Bengal, the greater part of the materials required for the numerous and valuable manufactures, and most of the other principal articles of export, are the produce of the lands: it follows, that the commerce and consequently the wealth of the country, must increase in proportion to the extension of its agriculture. But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these provinces. The Hindoos, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence; and the generality of such of the lower orders of the natives as are not of that persuasion, are, from habit or necessity, in a similar predicament. The extensive failure or destruction of the crops that occasionally arises from drought or inundation is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and the manufacturers, from whose labours the country derives both its subsistence and wealth. Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue subject to these calamities, until the proprietors and cultivators of the lands shall have the means of increasing the number of the reservoirs, embankments, and other artificial works, by which to a great degree, the untimely cessation of the periodical rains may be provided against, and the lands protected from inundation; and as a necessary consequence, the stock of grain in the country at large shall always be sufficient to supply those occasional, but less extensive deficiencies in the annual produce, which may be expected to occur, notwithstanding the adoption of the above precautions to obviate them. *To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the British administration has been directed, in its arrangements for the internal government of these provinces.*' (Italics ours).

'As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed for ever. These measures have at once rendered it the interest of the proprietors to improve their estates, and given them the means of raising the funds necessary for that purpose. The property in the soil was never before formally declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess, or raise money upon the credit of their tenures, without the previous sanction of Government. With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government. The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the ryots or tenants for each beegah of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public, and the remainder the share of the landholder. Refusal to pay the sum required of him was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of government, and the above-mentioned share of the landholder or such sum as special custom, or the orders of Government might have fixed, was paid to him by the farmer or from the public treasury. When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and monied men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself was so precarious. The same causes, therefore, which prevented the improvement of land, depreciated its value . . . ' *Bengal Regulations*, Vol. I, pp. 9-10.

third of the total arable land in Bengal was calculated as cultivable waste in those days.¹ The expansion of the trade of Bengal was vital to the interests of the Company not only because it traded in agricultural produce but also in several other ways.² It was thought that conferment of a right of private property in the soil on the zamindars and fixing the land revenue demand on them in perpetuity would provide an incentive to them to 'improve their estates' and also the means with which to do so.

Another long-term economic objective was concurrently to induce the monied class to invest its capital in the purchase and improvement of estates.³ Providing an incentive to investment in the development of agricultural estates had another short-term objective of immediate interest, viz., to relieve the pressure which many agency houses in Bengal were putting on the Company to open the India trade to private British merchants. These agency houses derived great strength from their links with indigenous capitalists. If the investments of the latter were diverted into land, the competitive power of the agency houses as against the Company in the field of trade as well as their political strength which they could use to oppose the Company's monopoly rights could be weakened.⁴

On the whole, however, the main objective was the long-term economic improvement of the Bengal economy in all possible ways which had become absolutely necessary for various reasons indicated by the Governor General in his Minute dated 3 February, 1790.⁵ And the two fundamental measures considered essential to the attainment of this object were the vesting of the property in the soil in the landholders, and fixing the revenue payable from each estate

¹ Governor General's Minute dated 18 Sept., 1789 in *Fifth Report*, Vol. II, Bengal Appendices, p. 512.

² 'Its (Bengal's) real value to Britain depends upon the continuance of its ability to furnish a large annual investment to Europe; to give considerable assistance to the treasury at Canton; and to supply the extensive wants of the other presidencies.' Governor General's Minute dated 3 Feb., 1790, in *Fifth Report*, Vol. II, p. 542; also see F. D. Ascoli, *Early Revenue History of Bengal and the Fifth Report, 1812*, (Oxford, 1917), pp. 72-73.

³ Lord Cornwallis, in his letter dated 6 March, 1793, addressed to the Court of Directors, wrote as follows, '... there is every ground to expect that the large capitals possessed by many of the natives ... will be applied to the purchase of landed property as soon as the tenure is declared to be secure, and they are capable of estimating what profit they will be certain of drawing from it by the public tax upon it being unalterably fixed.' Cited in Amles Tripathi, *Trade and Finance in the Bengal Presidency (1793-1833)*, (Calcutta, 1956), p. 18; also Pre-amble to Regulation II, 1793, in *Bengal Regulations*, *op. cit.*, pp. 9-10.

⁴ Amles Tripathi, *op. cit.*, Chapter I, pp. 1-36.

⁵ *Fifth Report* (Firminger's Edition), Vol. II, p. 542.

for ever. These two measures were taken in the belief that 'the magic touch of property' and 'a permanent assessment upon the scale of the present ability of the country, must contain in its nature a productive principle; that the possession of property, and the sure enjoyment of the benefits derivable from it will awaken and stimulate industry, promote agriculture, extend improvement, establish credit, and augment the general wealth and prosperity. . . . There will be gradual accumulation, whilst the demands of government continue the same, and in every step of this progressive work, property becomes of more value; the owner of more importance; and the system acquires additional strength'.¹

It must be mentioned that the decision to confer a right of private property in the soil on the zamindars was an act of deliberate policy and not a confirmation of the *status quo*.² This decision was taken in spite of a clear recognition by some officials that 'to admit, either in theory or in practice, the doctrine of private individual landed property . . . would be a most dangerous innovation (diametrically opposite to the letter and spirit of all oriental legislation, ancient and modern, devised by conquerors).'³ In fact, Lord Cornwallis gave little attention to the question whether the zamindars were the rightful owners of the soil or not. 'It is immaterial to Government what individual possesses the land, provided he cultivates it, protects the ryots, and pays the public revenue', he wrote.⁴ And further added, ' . . . from being persuaded that nothing could be so ruinous to the public interest, as that the land should be retained as the property of Government, I am . . . convinced that, failing the claim of right of the zemindars, it would be necessary for the public good, to grant a right of property in the soil to them . . . I think it unnecessary to enter into any discussion of the grounds upon which their right appears to be founded.'⁵

It will thus be evident that under the Bengal Permanent Settlement

¹ *Fifth Report*, Vol. III, p. 172.

² S. Gopal, *The Permanent Settlement in Bengal and Its Results*, (London, 1949), p. 17; also see George Campbell, *op. cit.*, p. 145 and A. D. Campbell in *Select Committee Report*, 1832, Appendix, p. 14.

³ Cited by Abhay Charan Dass in *The Indian Ryot, Land Tax, Permanent Settlement and the Famine*, (Calcutta, 1881), p. 13 fn. and quoted here from S. J. Patel, *Agricultural Labourers in Modern India and Pakistan*, (Bombay, 1952), p. 42.

⁴ Governor General's Minute dated 18 Sept., 1789, in *Fifth Report* (Firminger's Edition), Vol. II, p. 512; also see S. Gopal, *op. cit.*, p. 17.

⁵ Governor General's Minute dated 18 Sept., 1789, in *Fifth Report*, Vol. II, pp. 511-12.

vesting the right of property in land in the landlords and fixing the land revenue demand in perpetuity were considered to be the basis of agricultural prosperity. Proceeding on the theory that the main source of capital accumulation in agriculture was the rental income of the landlords, the landlords were considered to be the best instruments, not merely of civil government in their respective jurisdictions, but also for the development of agriculture and its improvement.

It is easy to trace the sources of these basic principles of the Bengal Permanent Settlement in the English institutions of property, English Classical Political Economy and the contemporary philosophy of *laissez-faire*, advocated by the French as well as English philosophers and economists. The pattern of landed property sought to be established was derived from the experience of institutions of property prevalent in England, or generally in the European countries. The conviction that the 'magic touch of property' is the best stimulus to economic growth was based on this experience. The assumption that the mutual interests of the zamindars and their under-tenants would be regulated by the operation of the law of supply and demand in respect of labour and land can be traced to the *laissez-faire* philosophy according to which the natural liberty and self-interest of individuals is the chief guarantee of social development.¹ The assumption of competition for land amongst tenants and for labour amongst landlords was also an inference from the established principles of contemporary Political Economy in England.

The evidence of the fact that the basic principles of the Bengal Permanent Settlement were derived from these sources is clearly discernible in all the minutes and proceedings relating to the Bengal Permanent Settlement. The original promoter of the idea of Permanent Settlement was Sir Phillip Francis, a member of the Governor General's Council in Bengal Presidency, who was a great believer in the abstract principles of political economy and who considered any detailed enquiry into the land tenures of the country or its other institutions as absolutely unnecessary.² His minutes in 1772 and 1776 were full of references to Montesquieu, James Stuart,

¹ "Firminger's Historical Introduction" in *Fifth Report*, Vol. I, pp. ccciv-cccv; also see Holt Mackenzie's Letter to the Select Committee of 1832 in *Report of the Select Committee on East India Affairs*, Vol. III—Revenue, p. 298.

² *Ibid.*, pp. ccxciii-cccx; also see S. Gopal, *op. cit.*, pp. 13-14 and Ascoli, *op. cit.*, p. 34.

elder Mirabeau, Quesnay and Adam Smith.¹ In those days John Shore was a close friend of his and even assisted him in drafting his minutes on the land settlement question.² The idea of permanent settlement was adopted by the authorities at Home after Francis's publication of his own minutes and correspondence on the occasion of the trial of Warren Hastings in England. In the words of James Mill, 'his plan of finance was adopted with blind enthusiasm, with a sort of mechanical and irresistible impulse'.³

Owing to the application of these fixed *a priori* principles drawn from the experience of western countries to an entirely different institutional set-up, the basic features of the Indian revenue system and the Indian forms of property were completely misconceived and misconstrued. The British officers comprehended the Indian revenue system and the agrarian relationships of the various classes through the media of such concepts as property, rent, value, price, etc., the connotations of which were different from the real situation that obtained in the Indian villages. The State share of gross produce was equated with rent,⁴ without examining whether the land revenue in India could justifiably be characterised as rent in view of the various forms of customary privileges which the Mughal revenue system permitted the cultivators to enjoy. The privileges of zamindars in regard to the perquisites of their management of lands, acquired through the State and made hereditary through the usurpation of the rights of the State were made the basis for conferring on them the right of private property in the soil in conformity with western notions. Villages were treated as 'estates'; revenue rates of preceding governments were considered as rent-rates;⁵ custom was implied to have been replaced by competition; the rights and privileges

¹ For instance, see Minute of Francis dated 5 Nov., 1776, in *Selections from East India Papers, op. cit.*, Vol. III, p. 439, where we read as follows: 'I am sensible that my opinion, on this or any other great political question, is no authority; I desire therefore to support it by those of men already in possession of the public respect and esteem. I fear no condemnation which may involve me with Doctor Smith, Sir James Stuart, and Montesquieu.'

² "Firminger's Introduction to the Bengal Appendices" in the *Fifth Report*, Vol. II, p. ix.

³ "Firminger's Historical Introduction" in *Fifth Report*, Vol. I, p. ccxciii.

⁴ See Revenue Letter to Bengal dated 15 Jan., 1819, para. 54 in *Report of the Select Committee 1832*, Vol. III, Appendix, p. 99.

⁵ 'Great confusion of ideas might be produced by the misapplication of the English terms which is common in our official revenue language. We talk of estates, when we mean villages, and proprietors, when we ought to speak of village communities, and make a jumble between revenue and rent.' Minute by Charles Metcalfe, dated 7 Nov., 1830 in *Revenue Selections (1822-1833)*, p. 214; also H. S. Maine, *op. cit.*, p. 182.

enjoyed on the basis of status and custom were deemed to have been based on contract and were left to be regulated by the forces of the market.

The social, economic and political consequences of the imposition of an alien and artificial system were bound to be unfortunate in many ways. The promulgation of the Permanent Settlement in Bengal resulted in a large-scale transfer of property from the ancient zamindars, and *rajas* to the mercantile classes of Calcutta.¹ It also led to a gross violation of the customary rights of the cultivators to fixed revenue-rates,² and of their right to joint property in wastelands, fisheries, forests, gardens and trees. The village communities in Bengal had already decayed considerably during the period of decline of the Mughal empire.³ Nevertheless, several of their rights, particularly relating to rights of perpetual occupancy on land and payment of fixed rates of revenue had survived in spite of the oppression and exactions of later Mughal chiefs and nobles. But the Permanent Settlement completed the process of annihilation of all customary rights. A detailed discussion of the consequences of Permanent Settlement in Bengal, however, is beyond the scope of the present study.

(ii) *Principles of Land Revenue Settlement in the Ceded and Conquered Provinces in the early years of British Rule*

All the premises and principles of the Permanent Settlement in Bengal were also accepted and adopted in the case of Ceded and Conquered Provinces and all the institutions of revenue and judicial administration were consequently established on the same lines as in Bengal.

Immediately after the cession, a Board of Commissioners for the Ceded Provinces was appointed, presided over by Henry Wellesley as Lieutenant Governor of the territory, for the administration and

¹ 'One-third to one-half of the zamindaris of Bengal were sold by the rigour of the sale law and they were mostly bought by rich parvenus, the banians from Calcutta, who had amassed their fortunes in their transactions with the English, the French and the Dutch and by those who had made money by banking contracts, inland trade and such other activities.' N. K. Sinha, *Economic History of Bengal*, Vol. I, pp. 4-5; also see an article "Marx on Permanent Settlement in Bengal" in *New Age (Monthly)*, published from Delhi, for July, 1953; A. D. Campbell, *op. cit.*, p. 23, and *Fifth Report*, Vol. I, p. 101.

² A. D. Campbell, *op. cit.*, pp. 13-17.

³ George Campbell, *op. cit.*, p. 147.

land revenue settlement of the new provinces.¹ Seven collectors for the seven districts into which the Ceded Provinces were initially divided were also appointed.

The very first step taken by the administrators was that of taking over the control of the revenue administration from the *amils* of the Nawab of Oudh. In this process they faced numerous difficulties. Their correspondence in those years clearly brings to light the devastated state of the agricultural economy under the oppression of former rulers and the impediments which they faced in taking over the administration. They came into conflict with numerous zamindars, *rajas*, *taluqdars* and *amils* who had assumed control of many villages, usurped their revenues, and refused to surrender their rights to the British collectors. They had built mud forts and resisted with armed strength the establishment of British rule in their territories.²

Leaving these initial difficulties aside which were tackled through administrative and political methods, let us examine the principles of land and revenue administration which were initially proposed by Henry Wellesley in a letter dated 7 January, 1802 to the Governor General in Council.³ From the very beginning of the British rule, 'a very great change in the internal management of the Ceded country' was considered as the primary object in view of the administrators; but the first question raised by the Lieutenant Governor was 'how far the regulations which have been introduced in Bengal would apply to the actual state of the Ceded Provinces, or whether retaining the general principles of those regulations, certain modifications of the rules prescribed in them for the settlement of land revenue, collection of the revenue and the administration of civil and criminal justice might not at the outset be necessary.'⁴ He felt that the ground in the Ceded Provinces was not sufficiently ready for the introduction of the Bengal regulations and it would take some years to prepare the ground. Moreover, in his opinion, great consideration was due to 'the manners, religion and habits of the natives'.

¹ See *Fifth Report*, Vol. I, p. 87.

² For details of these initial difficulties, see "Proceedings of the Board of Commissioners" for the years 1803-07 in the Record Office of the Government of Uttar Pradesh at Allahabad. These proceedings begin from 18 March, 1803 and are available uninterruptedly for the entire period of our study. Only a fraction of these records for the early years have been published now in *Henry Wellesley's Correspondence (1801-1803)*, General Editor G. N. Saletore, Allahabad, published by the Central Record Office, U.P., 1955.

³ See "Secret Proceedings" dated 24 June, 1802, Consultation No. 141, in the National Archives of India, New Delhi.

⁴ *Ibid.*

‘Any sudden or violent innovation’, he warned, ‘would not fail to be received with an eye of jealousy and distrust, and might be attended with very serious consequences.’¹

Nevertheless, the Lieutenant Governor felt that ‘an assurance to the landholders of undisturbed possession in the produce of their industry is the best foundation that can be laid for the prosperity of the country, and this assurance may best be given by making a settlement in all practicable instances with the zemindars’. By ‘zemindars’ he meant only the intermediary landlords comparable to those in Bengal. And he pleaded that the settlement should include various provisions for the security of the *ryots* or actual cultivators which should be determined by the existing local usages and circumstances. For this purpose, the office of the *qanungo* should be retained and all ancient *qanungos* unjustly dismissed by the former *amils* should be reinstated. But, for many reasons, such as non-availability of the detailed accounts of the revenue potential of the region and the evil consequences of the oppression of the *amils*, he felt that at the outset, settlements should be made for a short term of years rather than in perpetuity.²

As regards the relations between the zamindars and cultivators, Wellesley indicated that ‘enquiry will first be made into the local customs’ bearing ‘on the rate at which and the manner in which the cultivators have been accustomed to pay their rent and the zemindars have a right to demand it.’ He felt that it was advisable to defer reform for sometime; what was needed was written engagements or records which will render the reciprocal engagements easily ascertainable. The same precaution had to be exercised with respect to zamindars in the matter of their engagements with the officers of government. Such engagements, if they were real and were effectively enforced, would, by themselves, constitute an important piece of reform which will remove the principal evils of the Nawab’s government.³

As regards the officers who would collect revenue, Wellesley recommended the appointment of *tahsildars* in place of *amils*, who were to make collections on the strength of written engagements, to be allowed a percentage upon the amount realized, and to hold immediate charge of the police within their divisions.

¹ *Ibid.*

² *Ibid.*

³ *Ibid.*

As regards the means for realizing arrears of revenue, the Lieutenant Governor felt that the practice of sale of lands,¹ prevalent in the Company's provinces, would not be expedient and that some less offensive mode of recovery should be devised. Sale of land was to be resorted to only in the last extremity. Judging by the temper, disposition and character of the people, he had no doubt that they would rather submit to capricious oppression under the Nawab's government than be dispossessed of their lands in the most regular and legal manner under the new administration.²

Further, the idea of attracting monied persons and wealthy capitalists into investing their capital in land was undoubtedly prominent in the mind of Henry Wellesley. In another letter to the Governor General he wrote:

In a country where oppression has reduced the cultivators of the soil to a bare subsistence, and where they are compelled to solicit advances from the Government or individuals as the only means of enabling them to profit by the natural fertility of the soil, I consider the introduction and encouragement of opulent bankers as an object of peculiar importance to the speedy increase of cultivation. Men of this description naturally follow where money transactions are carried on to the greatest amount and the security they will enjoy under the well-known justice and rectitude of the British Government will immediately induce them to employ their funds, not only on their own mercantile speculations, but in assistance to the general cultivation of the country.³

Wellesley also considered it necessary to take sureties, while making settlements of land revenue with the zamindars, from amongst wealthy persons who could undertake to pay the government revenue in case the original proprietors failed to pay and defaulted. This he felt was necessary in order to secure the land revenue by taking the pledge of an independent capital against the risk of non-payment. In cases where the sureties had to discharge the government demand, the land was to be held by them in mortgage so long as the original

¹ Sale of lands was the process through which the British Government realised the revenue arrears on lands the proprietors of which had defaulted in payment. The government held an open auction of such lands and the estate was sold to the highest bidder, and the purchaser became the proprietor of the land in place of the old proprietor. See below "Nature of the Rights of the State".

² Letter of Henry Wellesley dated 7 Jan., 1802, *op. cit.*

³ Secret Proceedings dated 24 June, 1802, *op. cit.*, Consultation No. 107.

proprietor did not repay the amount. This was again meant to introduce monied persons gradually into the holding of landed property.

Finally, as regards judicial administration, Lord Wellesley felt that for the time being the functions of a collector as well as of a judge must be combined in the same individual and not separated as in Bengal.¹

Thus, although the very first plan of land revenue settlement in the Ceded Provinces was conceived and formulated on the lines of Bengal, it is important to note that Lord Wellesley had recommended caution against hasty introduction of the plan of Permanent Settlement in the Ceded Provinces.² A number of local enquiries were to be made to ascertain the relative rights of the zamindars and the cultivators and the prevailing rates of revenue and rent. But the encomiums uniformly bestowed on Lord Cornwallis's institutions had probably influenced the determination of the Supreme Government at Calcutta to introduce them immediately into the Ceded Provinces as well.³ Consequently, no attention was paid to the need for caution and local enquiries recommended by Wellesley. Instead, a complete plan of Permanent Settlement of land revenue after ten years was announced on 14 July, 1802, in the Proclamation issued by the Lieutenant Governor.⁴ This Proclamation promised a Permanent Settlement after a period of ten years during which two triennial settlements and one quartennial settlement were to be concluded with 'zamindars or other actual proprietors of the soil'. In the case of zamindaris mortgaged or transferred with possession, settlement was to be made with mortgagees or sureties. Small *taluqs* or estates only nominally included in large zamindaris were to be separated. Lands without proprietors were to be either farmed (to revenue farmers) or settled with *muqaddams*, *pradhans*, or respectable *ryots* or held by officers of government for direct collection of revenue from the cultivators. *Pattas* were to be granted to under-tenures, and security for payment of revenue of an amount equal to one-fourth of the annual *jama* was to be furnished.⁵

¹ Letter of Henry Wellesley to the Governor General dated 7 Jan., 1802, *op. cit.*

² *Fifth Report*, Vol. I, p. 90.

³ *Ibid.*

⁴ *Henry Wellesley's Correspondence*, pp. 70-76; also see *Bengal Regulations*, Vol. I, pp. 635-37.

⁵ *Bengal Regulations*, Vol. I, pp. 635-37; also see *Fifth Report*, Vol. I, pp. 91-92.

This plan was later incorporated in the full code of regulations, promulgated in the Ceded Provinces on 24 March, 1803, which was modelled exactly on the lines of the Bengal Settlement. Most of the regulations were mere verbatim transcripts of the Bengal regulations and laid down the same pattern of relative rights and privileges for the different classes of the agricultural community as in the Bengal code.

The same code of regulations was also extended to the Conquered Provinces and Bundelkhand in 1805. Before that year, those territories had remained temporarily under the military administration of Lord Lake who had also issued a similar Proclamation prior to the promulgation of the full code of regulations.¹

The relative rights, interests and privileges of the different classes in the agricultural community, as recognised under these regulations, were different from those in the pre-British period. It is proposed to examine these differences with special reference to these regulations under the following heads:

1. Nature of the rights of the State
2. Nature of the rights of the revenue engagers
3. Nature of the rights of under-tenures below the revenue-engagers.

NATURE OF THE RIGHTS OF THE STATE

In this respect, the British regulations were based on the same fundamental principle which was implicit in the Indian revenue system, viz., that the ruling power was entitled to take a proportion of the annual produce of every *bigha* of cultivated land.² But in the exercise of its right to appropriate a share of the gross produce of agriculture, the State now created or recognised a new form of property in land and its produce by vesting a right of private property in the soil in the persons who engaged for revenue as zamindars or as actual proprietors.³

¹ Regulation IX of 1805 in *Bengal Regulations*, Vol. I, pp. 778-89; also see *Fifth Report*, Vol. I, p. 92.

² See Preambles to Regulations XXXI and XXXVI, 1803 in *Bengal Regulations*, Vol. I, pp. 671-72 and 686 respectively; also see *Directions for Revenue Officers in the N.W.P.*, (Calcutta, 1858), p. 1.

³ See Section XXXIV, Regulation XXV, 1803 in *Bengal Regulations*, Vol. I, pp. 638-39, where we read as follows:

'It is well-known to the zemindars, talookdars, and other descriptions of

Unlike the Bengal regulations (see Preamble to Regulation II, 1793), the regulations of the Ceded and Conquered Provinces did not declare clearly that a right of private property in the soil would be vested in the persons who engaged for revenue. It was only presumed that the persons who engaged for payment of revenue as zamindars were possessed of a right of private property in the soil.¹ Under the influence of the principles and practices of the Bengal Permanent Settlement, surreptitiously and by sub-silentio presumption, the notion that the government vests a right of private property in the soil in the engaging zamindar became generally prevalent among both revenue and judicial officers and was also adopted by the Court of Directors.²

landholders in the provinces ceded by the Nawaub Vizier to the Honourable the English East-India Company, that from the earliest times until the present period the public assessment upon the lands has never been fixed; and that, according to the established usage and custom, the rulers of those provinces, and their delegates, have exercised a discretionary authority in depriving them of the possession of their zemindaries, talooks, and other tenures, whereby their right of property therein has become precarious and of little value, whilst the lands, from being let in farm to strangers, or otherwise disposed of, have been impoverished, and the tenants and cultivators of the soil have been exposed to rapacity and oppression. With a view of promoting the interests of the landholders and to enhance the value of their estates, as well as to induce them to encourage their under-tenants and to extend cultivation under the certainty that they will enjoy the fruits of their industry and good management, the Governor-General in Council, has, by the rules contained in the preceding sections of this Regulation, and in Section LIII, Regulation XXVII, 1803, not only directed a settlement to be immediately made with the zemindars and other proprietors of land who shall be willing to engage for the revenue of their respective estates but has also declared, that a permanent assessment shall be fixed, at the end of ten years, on such lands as shall be in a state of cultivation sufficiently advanced to render it proper to fix the assessment on the same in perpetuity; and the Governor-General in Council further declares the proprietary rights of all zemindars, talookdars, and other descriptions of landholders possessing a right of property in the lands composing their zemindaries, talooks, or other tenures, to be confirmed and established, under the authority of the British Government, in conformity to the laws and usages of the country, and to the Regulations which have been or shall be hereafter, enacted by the Governor-General in Council.³

¹ The title of the Regulation XXV, 1803, which embodies the terms and conditions of the settlement, reads as 'a regulation for declaring the proprietary rights in the land to be vested in the zemindars and other landholders', but the preamble of this regulation reads as follows: '... whereas it is essential to the security of the rights and interests of the zemindars and other landholders in the said provinces, that the right of property possessed by them in their respective estates ... should be publicly acknowledged and declared', (see p. 632 of *Bengal Regulations*, Vol. I). The language of Section XXXIV, given in the preceding footnote, also shows that the right of private property was not declared directly to be vested in the zamindars by the formal declaration of law. Thus, from all this evidence it appears that the right of property was presumed to be vested in the zamindars and other landholders which is also confirmed by Holt Mackenzie in his Memorandum, dated 1 July, 1819, (see footnote below).

² Holt Mackenzie's Memorandum dated 1 July, 1819, in *Selections from Revenue Records (1818-1820)*, p. 80 fn.

From these 'presumed proprietors', the British collectors were to take engagements for payment of the State revenue due from the villages held by them as their private property according to their presumed rights. The amount of the revenue was to be determined, initially, on the basis of past collections, and subsequently on the basis of accounts and records obtained from *patwaris* and *qanungos* showing the real revenue potential of the villages. In case the so-called proprietors refused to engage for terms offered, settlement was to be made with revenue farmers for a fixed period, or revenue was to be collected directly by the officers of the government from the actual cultivators according to the rates prescribed by custom.¹

For realising the arrears of revenue, the State now reserved to itself the power to put on sale by auction the whole estate for which the revenue fell in arrears, and thus for ever to divest the proprietor of his property in the soil.² It also demanded security from the revenue engagers for the payment of the revenue demand failing which the amount was to be realised from the sureties. When the sureties met the revenue demand, they were entitled to hold the estate on mortgage until they received their money back from the defaulting proprietors.³ Further, the State also acquired the right to auction estates in the execution of money decrees passed by the courts against the proprietors.⁴

Thus, under the new regulations, a right of private property in land was recognised which could be obtained in several ways. Firstly, by mere engagement for payment of the revenue as a zamindar, one could become proprietor of land, since 'zamindar' and 'landed proprietor' were synonymous terms for the British officers in those days. Secondly, by becoming a surety for the payment of revenue, one could acquire the right to engage for revenue and in the course of time become proprietor by obtaining a sale deed from the person who was its original owner. Thirdly, by purchasing an estate at auction, one could become a landed proprietor. Fourthly, by making money advances to the original landholders and by getting money decrees executed against them by the courts, one could also acquire

¹ Section LIII, Regulation XXVII, 1803, in *Bengal Regulations*, Vol. I, pp. 658-60.

² Section 17, Clause 5, Regulation XXVII, 1803, in *Ibid.*

³ Clause Tenth, Sec. LIII, Regulation XXVII, 1803 in *Ibid.*; also see Article Twelfth of the Proclamation dated 14 July, 1802, *Ibid.*, p. 637.

⁴ Regulation XXVII, 1803 in *Bengal Regulations*, Vol. I, pp. 647-60; also see Sec. 17, Regulation XVI, 1803 in Marshman, *Guide to the Regulations of the Bengal Presidency*, (Calcutta, 1833), Vol. I.

rights of private property in land. Of course, apart from these ways provided in the regulations, one could also acquire landed property by purchase directly from the persons who had been vested with a right of private property in the soil by the regulations.¹

Thus, the nature of the rights created and the powers assumed by the government under the British regulations were such that the composition of the proprietary classes was no longer to be determined by the direct acts of the State or by status or inheritance. The right to property now became one which could be bought and sold in the market for money at the instance of the State or of the individuals possessing it. Investment of capital in land, under the new regulations, conferred both the status as well as the privilege of enjoying a share of the produce of agriculture. The auction of land to recover arrears of revenue or for money decrees and the settlements with the sureties for payments of arrears of revenue considerably accelerated the scope of the transfer of property rights in land in subsequent years. And such transfers took place on a large scale as we shall see in the following chapter.

It is also important to note that the State reserved for itself the power of intervening between the new proprietors and actual cultivators to ensure the security of the latter. The collection of all the *sayer* (miscellaneous) duties like the transit duties, customs, *bazar* and *gunj* (market place) duties, etc., was separated from the collection of land revenue and the State arranged for their realisation separately through its own officers.² Moreover, the State also reserved its power to resume all the revenue-free tenures in land held illegally.³

The persons with whom settlements for revenue were to be made according to the British regulations, unlike in pre-British times, were not permitted to collect any other taxes except land revenue, nor were their zamindaris (estates) to include land which had been held revenue-free directly from the State.

An important provision, in the case of estates sold for arrears of revenue, was that all engagements and tenures of all the under-farmers, under-renters, or under-tenants on these estates were annulled with effect from the day of the sale, and the purchasers were free to collect whatever the former proprietor was entitled to demand according to the usages and rates of the *pargana* or district

¹ Sec. XXXVI, Regulation XXV, 1803, in *Bengal Regulations*, Vol. I, p. 640.

² Sec. LIII, Regulation XXVII, 1803, in *Bengal Regulations*, Vol. I, p. 660.

³ Regulation XXXI, 1803, in *Bengal Regulations*, Vol. I, pp. 671-81.

as if the engagements so cancelled or annulled never existed.¹ This special provision applied only to estates sold by public auction for recovery of arrears of revenue and not to estates transferred in any other manner.

It has often been held that the early British regulations were more the product of mistaken notions than of deliberate policy.² But, from all contemporary evidence, it is legitimate to infer that the original plan of revenue settlement as well as all the subsequent plans were the product of deliberate design and policy. Policy, no doubt, changed from time to time. At a subsequent period, when a basic shift in ideas on land problems took place, the earlier policies began to appear as mistaken and misconceived. But the earlier regulations were as much a result of deliberation as the later laws on which the modern tenures are mainly based.

The economic objectives of bringing about these changes in the nature of the State's rights were more or less the same as in Bengal. To promote extension of cultivation and its improvement by vesting a right of private property in the former intermediaries, to ensure security of State revenue by taking compulsory sureties from amongst merchants and bankers, to bring about through public auctions the transfer of land to a class most capable of land management, (according to the beliefs of those days), and to provide an alternative field of investment in land for indigenous capital were some of the important objectives underlying these measures. The provision of annulment of all existing tenures on estates sold for arrears of revenue was meant to raise the value of land to provide an incentive to capitalists to buy and improve landed property. It also helped in establishing a free market in land which was to become the principal means of regulating the flow of capital into investment in land in later years. The provision for taking sureties for revenue from amongst merchants and bankers was also meant to induce them to invest their capital in land and undertake its management in their own hands. It meant that capitalists would be compulsorily associated with the persons with whom settlements of revenue were made. In view of the high pitch of revenue demand, it meant that they would gradually become owners of land since improvident owners and proprietors would not be able to discharge the demands of

¹ Sec. V, Regulation XLVII, 1803, in *Bengal Regulations*, Vol. I, p. 705.

² See B. H. Baden-Powell, *Land Systems of British India*, Vol. II, pp. 11 and 14; also see B. R. Misra, *Land Revenue Policy in the U.P.*, pp. 26, 56 and 59.

government revenue. And thus the objective of land passing into the hands of most suitable persons would be achieved.

It will be evident that although the nature of the rights of the State remained basically the same as in pre-British times, the manner of exercising those rights as laid down in the British regulations was completely different. The public auction of land for arrears of revenue was a procedure unknown in pre-British India, unless the frequent change of revenue farmers be considered an instance of such practice.¹ But the latter was more an auction of the right of collecting the State revenue than an auction of the right to property in land. The system of sale of land in execution of money decrees by the State was similarly an innovation;² so was the insistence upon the security for revenue being taken—and that too from merchants and bankers—a system which involved pledging the liquid capital of the country for meeting the land revenue commitment to the State.

NATURE OF THE RIGHTS OF REVENUE ENGAGERS

The right of private property vested (or presumed to be vested) in the revenue-engagers was a 'bundle of powers and privileges' which consisted of the following:

- (1) The right to appropriate (by virtue of a mere title of ownership), not only the State share of produce from all the cultivated land in the 'estate' of which the revenue had been engaged for, but also all the natural produce of unassessed land such as the fisheries, forests, pastures and gardens, etc., including the trees planted by others. The right to property in the land of the village site (*abadi*) was also deemed to have been vested in them.
- (2) The right to transfer by inheritance or by voluntary sale, gift or mortgage the right to property in the soil. Such transfer was, of course, always subject to the indefeasible right of the government to the public revenue assessed on the land. Rights of inheritance were to be regulated according to the Hindu or Mahomedan laws, according to the religion of the proprietor.³

¹ *Note on Land Transfer and Agricultural Indebtedness in India*, para. 8; also *Fifth Report*, Vol. I, pp. 104-05.

² *Ibid.*, para. 7.

c. XXXVI, Regulation XXV, 1803, in *Bengal Regulations*, Vol. I, p. 640.

- (3) The right to let out land on lease to dependent *taluqdars*, under-renters, tenants and *ryots*. Such leases were not to exceed the period of the proprietor's own tenure. Every engagement with them was to be specific as to the amount to be paid and the conditions of payment. These terms were to be incorporated in writing in the *pattas* (lease-deeds) to be compulsorily issued by the revenue engagers. Moreover, the new proprietors were given the right to cancel the terms and conditions of all the engagements with dependent *taluqdars* holding for less than ten years and to grant new leases to them.¹
- (4) The right to collect the State share of produce (now called rent) from all non-engaging classes even by means of 'distrain of crops, the products of the earth of every description, the grain, the cattle and all other personal property, whether found in the house or on the premises of the defaulter or any other person, belonging to the under-renters and ryots and the dependent zamindars and *pattidars* paying revenue through them, for arrears of rent or revenue and to cause the said property to be sold for the discharge of such arrears,² without sending any notice to any court of justice or any public officer'. The same powers were conferred on persons collecting the revenue of the State as subordinates of the chief revenue engagers holding land directly from the government.³ Severe criminal penalties were provided against any form of resistance to such distrain and sale of property of the cultivators to discharge arrears of revenue or rent.
- (5) The right to make fresh engagements with all the under-tenures for lands sold by public auction for arrears of revenue.⁴
- (6) The right to engage for collection of government revenue and enjoy exclusively all benefits arising therefrom. At the time of the settlement these consisted of that portion of State revenue which was to be left to them by the British Government by way of perquisites of management. In subsequent years, they consisted of all the increase in rents

¹ Sec. II, Regulation XXX, 1803; also see Sec. VI of the same Regulation.

² Clause First, Section II, Regulation XXVIII, 1803.

³ Clause Second, Section II, Regulation XXVIII, 1803.

⁴ Regulation XLVII, 1803.

that could be secured by increasing the rates on already cultivated land, by cultivation of more valuable crops, by extension of cultivation on wasteland and by such other means which tended to increase the produce or its value. In the context of State demand being fixed in perpetuity, these benefits potentially were considerable.

Further, the right to engage for collection and payment of State revenue and the right to property in the soil were both merged into one another. Whoever had a claim to property in the soil could engage for the collection of State revenue, and whoever was recorded in government books as being entitled to collect the government revenue except as a farmer or *muqaddam* was to have a right of property in the soil. In the initial years, these two rights were frequently confused with each other. This confusion was the fruitful source of many abuses. The *tahsildars* and other revenue officials exploited this confusion to their own advantage so that in numerous cases, landed property belonging to others passed into their ownership, as we shall see in the next chapter.

The direct benefit flowing from the right to engage for collection of State revenue was the *nankar* allowance up to 10 per cent on the government *jama* (assessment) allowed to the engaging proprietors.¹ This was allowed in pre-British times also to cover the expenses of collection and of the maintenance of police incurred by the revenue-collecting agents. Previously, in itself, this right was not of much value. But now the main benefit flowing from this right was that it was possible to appropriate the difference between the variable collections from the cultivators and the fixed payment due to the government. Previously, this difference could be appropriated only through the weakness or the indulgence of the State. But now the appropriation of such difference was authorised by law.

The fundamental difference between the rights of revenue engagers under the British regulations and under the former Indian rulers can be easily seen. The powers and privileges conferred on them by the British laws were basically different from those exercised by the same classes in the worst days of the Moghul rule. In pre-British times, their rights over the peasants extended to seizure and confiscation of personal property, imprisonment, chastisement

¹ Sec. XXX, Clause Second, Regulation XXV, 1803, in *Bengal Regulations*, Vol. I, p. 637.

with stripes, torture, etc.¹ But the cultivators could never be physically alienated for ever from the lands that they cultivated. But now the occupancy rights of the cultivators were merged into the rights of private property of the revenue engager. Moreover, British laws did not recognise the customary joint property of the village communities which was now usurped by the new proprietors.

Moreover, the right to voluntary transfer of land by sale, mortgage, gift, etc., formerly vested in, though seldom exercised, by the village zamindars, was now conferred on the new proprietors. Thus, all the benefits provided by the State by sacrificing a share of its revenue were conferred on the new proprietors and not on the cultivating zamindars.

Further, all the benefits arising from the encroachment on the customary rights of the village zamindars or the increase in the amounts payable by the various social strata in the village were also to be concentrated in the hands of the new proprietors. Judged in the background of the rights and privileges enjoyed by the various classes in the village communities in the pre-British times, the new regulations eventually meant a transgression on their rights and privileges and the transfer of those rights in the hands of the new class of proprietors.² The rights vested in the new proprietors were far-reaching since they gave wide powers of encroachment upon the customary rights of the village zamindars and *khudkasht* and *pahikasht* tenants. The amount of revenue payable by these latter classes could be raised by the new proprietors irrespective of the fact whether the revenue of the State was raised or not. Their customary privileges of enjoying the produce of wastelands, forests, fisheries and groves, etc., could now be curtailed and taken over by them. And with the fixation of the State revenue demand for a number of years or in perpetuity, all the increase in the income of the proprietors was not to contribute towards raising the income of the State directly. An increase in the burden of rent on the cultivators was not to benefit the State but only the intermediary proprietors. Thus, the basic identity of interests between the State and the cultivator, which was the *sine qua non* of the pre-British

¹ *Fifth Report*, Vol. I, pp. 104-05.

² '... we destroyed all the existing property in land, by creating a class of proprietors to whom we recklessly made over the property of others . . . ; ancient rights . . . are virtually destroyed by the title of property over the whole land conferred by us on those who had no pretension to it, and they must ultimately be extinguished when it suits the interests of regulation-proprietors to give the finishing blow.' Minute by Charles Metcalfe, in *Metcalfe Papers*, p. 254.

revenue system and which regulated the revenue policies of pre-British governments was vitiated by these regulations. The State divested itself of all responsibility in regulating the relations between the cultivators and the revenue-collectors and left this relationship to be determined by their mutual interests¹ in accordance with the spirit of the *laissez-faire* philosophy which was predominant in those times.

NATURE OF RIGHTS OF THE NON-ENGAGING CLASSES

The rights of all the other classes in the agricultural community were considered subservient to the rights of the new landed proprietors and were derived only from them. These other classes were described in the regulations as 'under-farmers, under-renters, dependent taluqdars, tenants, cultivators, or ryots'.²

The freedom to let the lands of *zamindaris*, estates or farms to these classes was given to the new proprietors under Section II of Regulation XXX of 1803. Their rights arose mainly out of the obligation which was imposed on the revenue-engagers to grant *pattas* to them in a prescribed form in which all authorised cesses and *abwabs* were to be consolidated with land rent (*assal jama*) and expressed as a gross sum.³ But this compulsion to issue *pattas* in a prescribed form was withdrawn by Section III, Regulation V, 1812 and proprietors were considered 'competent to grant leases . . . according to such form as the contracting parties may deem most convenient and most conducive to their mutual interests'.⁴ It was anticipated that, 'in time, the proprietors of land and their dependant taluqdars, farmers and ryots will find it for their mutual advantage to enter into agreements for a specific sum and for a certain quantity of land'.⁵

The ryot had also been given the right to demand 'a *pottah* from the actual proprietor of land or from the persons acting for him'. On refusal of the proprietor, he was entitled to file a suit in the

¹ 'The principle of the zemindarry or contract settlements . . . was non-interference: the men who engaged to pay the Government demand, and those from whom they collected it being left to settle the disputes necessarily arising out of the relation in the best way they could under the laws passed for the guidance of the courts of judicature' Holt Mackenzie, Letter to Select Committee on East India Affairs, 1832, in *Report*, Vol. III—Revenue, p. 298.

² Regulation XXX, 1803, in *Bengal Regulations*, Vol. I, p. 667.

³ Sec. VIII, Regulation XXX, 1803, in *Ibid.*, p. 669.

⁴ *Bengal Regulations*, Vol. II, p. 198.

⁵ Sec. VI, Regulation XXX, 1803, in *Bengal Regulations*, Vol. I, p. 668.

court, and 'any refusal to deliver the *pottah*, being proved, was to be punished by a fine proportioned to the expenses and trouble of the ryot'.¹ *Pattas* extending beyond the period of the under-renter's or proprietor's own tenure were not to be granted.²

However, the new proprietors were debarred from demanding an increase of rent from any *muqarraridar*, *istimrardar*, or any other under-tenant of land who was entitled to hold his tenure at a fixed annual revenue on 10 November, 1801, provided he had held the same for twelve years preceding. Such persons were declared exempt from all enhancement of their fixed rents,³ but no provision was made for ensuring that it did not happen in practice.

If we consider the nature of property and tenancy rights enjoyed by the parallel social strata of the village communities in the pre-British period, it can be seen that these rights conferred by the British regulations did not conform to the realities of the situation. A *patta* was the evidence of inferior status under the regulations. The non-engaging village zamindars, or the resident ryots could hardly be expected to exercise the right to obtain a *patta* in view of the fact that they regarded land as their property and not as on lease from a landlord.⁴ Acceptance of a *patta* on their part would be tantamount to a surrender of their rights and privileges in land and its produce to the proprietors and would make them fully responsible for agreeing to the terms laid down in the *patta*. Moreover, even to claim their right for the *patta* in the courts would amount to accepting their inferior status and giving up their right to property in land for ever. But, in the regulations, no remedy was left open to the non-engaging village zamindars, resident ryots or *pahikasht* cultivators to obtain recognition of their rights since no such rights were supposed to exist under the regulations. Hence their rights were entirely lost under the regulations.

¹ Sec. XI, Regulation XXX, 1803 in *Ibid.*, Vol. I, p. 670.

² *Ibid.*

³ Sec. XII, Regulation XXX, 1803, *Ibid.*, p. 670.

⁴ 'The ryots . . . have always opposed themselves to recognise any person in the character of proprietor, which they consider themselves to be,' in the *Report of the Select Committee on the Affairs of the East India Company*, 1832, Vol. III—Revenue, p. 189, Question No. 2304 in Mr. T. Fortescue's evidence; see also p. 29 in the Appendix of the same report. Also see *Memoir on Land Tenures and Principles of Taxation* by a Civilian in East India Company's service, (Calcutta, 1832), Chapter VIII.

(iii) *Assessment and Collection of Land Revenue*

Under the early regulations, settlement for land revenue (exclusive of *sayer* collections) was to be made 'with zemindars or other actual proprietors of the soil, in all practicable cases, first for a period of three years, at a fixed, equal, annual jumma'.¹ At the expiration of three years, another settlement was again to be made, with the same persons (if willing to engage) for three years on the same terms.² Thereafter, a new settlement was to be made with the same persons (if willing to engage) for a further period of four years again on the same terms.³ After ten years had elapsed, a permanent settlement was to be concluded with the same persons (if willing to engage and if no others with a better claim came forward) for such lands as were in a sufficiently advanced state of cultivation to warrant permanent settlement and on such terms as the government deemed fair and equitable.⁴

Settlement for revenue in the case of lands without proprietors, or in cases of lands where the proprietors declined to engage, was to be made either with farmers or with the village as a whole, preference being given to *muqaddams*, *pradhans*, or respectable ryots.⁵ If neither farmers nor proprietors were forthcoming, such lands were to be held as *khas* land and the revenue was to be collected by government officers from each cultivator.⁶

All zamindars or proprietors who declined to engage or whose offers were rejected were to be allowed the same *nankar* (perquisites of management) allowance on the *jama* as they had received under the former government, although this was not to exceed 10 per cent of the total *jama*.⁷ The *nankar* allowance to engaging zamindars, unlike in pre-British days, was to be deducted from the *jama* and engagements were to be taken only for the net *jama*.⁸

Such villages as were only nominally included in the large *zamin-daris* of some *rajas* or *taluqdars* were to be separated and allowed to pay their revenue directly to the *tahsildars*. Settlement in such cases was to be made with the village zamindars.⁹

¹ Sec. XXIX, Regulation XXV, 1803, in *Bengal Regulations*, Vol. I, p. 635.

² *Ibid.*, p. 636.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ Sec. XXX, Clause Third, *Ibid.*, p. 637.

⁸ *Ibid.*, Clause Second.

⁹ Sec. XXIX, *Ibid.*, p. 636.

All zamindars and actual proprietors excluded from the settlement in the first three years were required to prove their rights in the courts within six months, and if they succeeded in doing so, their rights in the settlement could be restored to them after the triennial settlement was over. If they failed to do so within this period, their rights could be restored only after ten years, provided they had established and proved their rights in the courts during the first three years of the British rule.¹ After that the settlement of land revenue was to be made permanently with those persons who had continued to engage during all the three periodical settlements.² All other rights were to be extinguished after the decennial period. Thus, all persons who had engaged as proprietors on the estates of others or who engaged as revenue farmers on estates without proprietors or whose proprietors were absent or unwilling to engage, were to be continued until the expiry of the decennial period.³

As regards assessment of revenue, it is surprising that no detailed rules were laid down probably again under the influence of the precedent of the Bengal Permanent Settlement. The amount in respect of the first three-year settlement was to be determined 'by such accounts as the collectors may be in possession of or may be able to obtain'.⁴ The amount in respect of the second three-year settlement was to be computed by calculating the difference between the annual amount fixed for the first settlement and the 'actual net produce' of lands after the expiry of the period of settlement and adding two-thirds of such difference to the annual rent under the first lease.⁵ But the mode of finding out the 'actual net produce' of the land was not indicated. Similarly, the annual revenue for

¹ Sec. LIII, Clause Third, Regulation XXVII, 1803, in *Bengal Regulations*, Vol. I, p. 658; also see *Henry Wellesley's Correspondence*, p. 73. The reason for the restriction of time within which the rights to property were to be established was that an adherence to the earlier rule of dispossessing the existing landholders any time during the three years might discourage persons with doubtful claims from adopting those measures for the improvement of their respective tenures which they might otherwise be induced to do. See "Circular of the Board of Commissioners to the Revenue Collectors dated 7th August 1802" in *Henry Wellesley's Correspondence*, p. 81.

² Sec. XXIX, Clause Fourth, Regulation XXV, 1803, in *Bengal Regulations*, Vol. I, p. 636; also see *Henry Wellesley's Correspondence*, p. 74.

³ See Regulation V, 1808, in *Ibid.*, Vol. II, pp. 79-82.

⁴ See "Instructions to Collectors for making the settlement" in *Henry Wellesley's Correspondence*, p. 71.

⁵ *Ibid.*, pp. 73-74; also see "Circular of the Board of Commissioners dated 10th August, 1802" in the Board of Commissioners' Records in the U.P. Record Room, Allahabad.

the four-year settlement was to be determined by adding three-fourths of the net increase of revenue during any one year of the period of the second three-year settlement to the annual amount of that settlement.¹ For the permanent settlement, the amount of land revenue was to be such as government deemed fair and equitable and it was to be declared only in respect of such lands as were in a sufficiently advanced state of cultivation to warrant permanent settlement.²

It appears from later discussions among the authorities that during the first ten-year period, the government had hoped to obtain all the information about the rates of revenue and the customs and usages governing its assessment,³ after which it could be in a position to conclude a permanent settlement on the basis of a full knowledge of the resources of the villages. While declaring its intention to introduce Permanent Settlement in the Ceded and Conquered Provinces, the British authorities were at the same time interested in deriving the maximum revenue commensurate with the extent of cultivation and the level of its improvement till the declaration of a permanent settlement.⁴ It was only the benefits of future extension of cultivation and its improvement which they wished to leave to the new proprietors, and not any part of revenue which legitimately belonged to the State under the indigenous revenue laws and practice at the time of making the settlement permanent.⁵ Their interest in the extraction of maximum revenue was naturally as important as that in the promotion of agricultural improvement since their commercial activity was dependant on revenue, and territorial revenues were the mainstay of their government.⁶

As already said, no rules or regulations were laid down in the initial regulations to determine the actual gross produce of lands. Nor were any serious efforts made to ascertain the customs and usages regarding the revenue-rates leviable on different types of

¹ *Ibid.*

² *Ibid.*; also see Sec. XXIX, Regulation XXV, 1803.

³ See Holt Mackenzie's Memorandum dated 1 July, 1819, paras. 199-242 in *Selections from Revenue Records of N.W.P. (1818-1820)*, pp. 57-63.

⁴ "... it was certainly an object to raise the demands of Government as high as it could be supposed the productive powers of the soil and the ability of the contributors were capable of realizing them." "Letter of the Court of Directors to Bengal Government dated 29th January, 1813," para. 25 in *Selections from the East India Papers*, Vol. I, p. 75.

⁵ See Holt Mackenzie's Memorandum, 1 July, 1819 in *Revenue Selections (1818-1820)*, pp. 9-65.

⁶ "Letter of Court of Directors dated 1 Feb. 1811", para. 36 in *Selections from East India Papers*, Vol. I, p. 4.

crops and soils. It was not considered even important to assess the probable produce of lands the estimation of which had been continuously attempted with different degrees of success in Bengal prior to the declaration of a Permanent Settlement. Thus the administration relied chiefly on past collections as the basis for determining its own revenue demands, and made efforts even to exceed them from year to year. We have seen that owing to the malpractices of the preceding rulers and their lust for revenue, the assessment of the villages went far beyond their capacity to pay. It was, therefore, unjust and indiscreet to take the past collections as the basis of revenue assessments. It was probably believed that collectors would be able to obtain from the *patwaris* and *qanungos* and *tahsildars* authentic accounts of gross produce, and revenue rates, etc., which could be utilised for fixing the amount of the assessments. But these hopes, if they were entertained at all did not materialise. Perhaps the pathetic belief in the efficacy of the principle of *laissez faire* made it unnecessary to insist on local enquiries into tenures, revenue rates, the value of lands, etc.

The difficulties in the way of a proper assessment of revenue, in the absence of any rules and regulations, proved to be the bedrock on which the new system of regulations and land settlements completely broke down, as we shall see in a subsequent chapter. Such a fluid system naturally led to higgling and bargaining between the collector and the revenue engagers and to revenue farming on an extensive scale in early years on the basis of very heavy assessment. Consequently, there were many public sales of property for arrears of revenue in the course of which many revenue officials also committed grave irregularities and took unfair advantage of their official position. The question of devising suitable methods of assessment before declaring a permanent settlement also brought to the fore the problem of harmonious regulation of the rights and privileges of different classes, which was calculated to stabilise the assessment and collection of revenue.¹ As we shall explain in other chapters, it was only after long and protracted deliberations that solutions were found for these numerous and complicated problems in the Ceded and Conquered Provinces.

The responsibility for collection of revenue rested on the British collectors who realised the amount through the *tahsildars* who

¹ Holt Mackenzie's Memorandum dated 1 July, 1819, paras. 227-28 in *Selections from the Revenue Records of the N.W.P. (1818-1820)*, p. 61.

were appointed on their recommendation from amongst the officers of the former governments.¹ Until 1806, *tahsildars* were allowed eleven and a half per cent² as commission on their gross collections, which covered all charges of collection and also enabled them to undertake all risks of losses and defalcations of revenue, to supply agricultural credit, and to maintain an efficient police in their jurisdiction.³ From 1806, onwards, the practice of paying the *tahsildars* by commission on gross collections was stopped and salaries were fixed for them. They had to furnish security up to the highest amount of a single instalment of revenue payable by them into the treasury.⁴ They were authorised not to allow the crops to be cut or carried away until security for the payment of revenue had been furnished by the zamindar, the farmer or the ryots, as the case might be. The expenses of the watchmen appointed to guard the crops were, however, met by the village as a whole.⁵

The basic principles of the British land and revenue administration in the first years of their rule which we have explained above continued to be operative till about 1822 with some minor changes and modifications. These regulations were also extended to the Conquered Provinces and Bundelkhand by Regulation VIII of 1805.⁶ In Regulation IX, 1805, identical provisions were made for two three-year and one four-year settlements after which a Permanent Settlement was to be made on exactly similar terms and conditions as in the Ceded Provinces.⁷ In Bundelkhand, the first settlement was to be for one year, to be followed by three triennial settlements before a Permanent Settlement. All the other conditions, i.e., persons to be engaged with, their rights and privileges, the mode of assessment and collection, etc., were exactly the same. An elaborate machinery of revenue and judicial administration was

¹ Henry Wellesley's *Correspondence*, pp. 74-75; also see Sec. II, Regulation XXVII, 1803, in *Bengal Regulations*, Vol. I, p. 648.

² Originally, only 10 per cent of gross collections was allowed to the *tahsildars* as their commission (see Henry Wellesley's *Correspondence*, p. 75). But later on, vide circular of the Board of Commissioners dated 10 Aug. 1802, powers were given to collectors to grant an additional $1\frac{1}{2}$ per cent on the gross collections in order to enable them to discharge all their police duties efficiently. (See Board of Commissioners, Records, Circulars issued to the Collector of Gorakhpur).

³ *Bengal Regulations*, Vol. I, p. 648.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*, pp. 770-77

⁷ *Ibid.*, pp. 778-89.

established and was entrusted with the task of implementation of these regulations and the settlement of land revenue according to the letter and spirit of these regulations.

Revenue Settlements from 1801 to 1822 and Their Consequences

THE LEGAL framework, as described in the preceding chapter, set the future pattern of agrarian relations into which the British Government sought to mould the pre-existing forms of property and tenancy in land or its produce in the Ceded and Conquered Provinces. The guiding policy underlying these laws was the same as in Bengal, viz., creating a landed aristocracy as an intermediary class between the government and the cultivators, in whom the right of private property in extensive estates may be vested and on whom all the benefits of a perpetual limitation of government demand and of the future extension and improvement of cultivation may be conferred. This class was expected to promote the development of the agricultural economy by encouraging tenants to settle on wastelands, by making them cultivate more valuable crops, and by investing capital in the improvement of land. The landed proprietors were therefore to be preferably selected from amongst the wealthy classes like merchants, bankers, former *rajas*, *taluqdars*, etc.

Further, to enable them to exercise full authority over their estates in the matter of regulation of tenancy and collection of rents, the rights and privileges of all the other classes in the agricultural community were subordinated to the rights of the new landlord intermediaries. The relations between them and their tenants were also left to be governed by their mutual interests. The only safeguard for the tenants provided in the laws was that the terms of their tenancy were required to be formalised through written engagements in the form of lease deeds (*pattas*).

Let us now review the actual enforcement of these regulations in the course of revenue settlements from 1801 to 1822 and their consequences which followed.

(i) *Administrative Background*

As already mentioned, land revenue for the first year of the British rule in the Ceded Provinces (1801-02)¹ and for the first two years in the Conquered Provinces and Bundelkhand (1803-04 and 1804-05) was collected from the officers of the former governments, i.e., from the same persons who had been in contractual relations with the preceding governments and on the basis of the same assessments which had been determined by the former rulers. Thereafter, three temporary settlements were made in the first ten years of British rule in each of these territories.² Of these, the first two settlements

¹ See Letter of Henry Wellesley to John Routledge, Collector of Gorakhpur, dated 12 Dec. 1801, in *Henry Wellesley's Correspondence*, pp. 53-57; also see *Fifth Report*, Vol. I, p. 58.

² The years for which temporary revenue settlements were concluded in different territories from 1801 to 1822 were as follows:

<i>Territory</i>	<i>Annual Collections on the basis of previous engagements</i>	<i>First Revenue Settlement</i>	<i>Second Revenue Settlement</i>	<i>Third Revenue Settlement</i>	<i>Fourth Revenue Settlement</i>	<i>Fifth Revenue Settlement</i>
Ceded Provinces	1801-02	1802-03	1805-06	1808-09	1812-13	1817-18
		1803-04	1806-07	1809-10	1813-14	1818-19
		1804-05	1807-08	1810-11	1814-15	1819-20
				1811-12	1815-16	1820-21
					1816-17	1821-22
Conquered Provinces	1803-04	1805-06	1808-09	1811-12	1815-16	1820-21
	1804-05	1806-07	1809-10	1812-13	1816-17	1821-22
		1807-08	1810-11	1813-14	1817-18	1822-23
				1814-15	1818-19	1823-24
					1819-20	1824-25
Bundelkhand	1803-04	1806-07	1809-10	1812-13	1815-16	1820-21
	1804-05	1807-08	1810-11	1813-14	1816-17	1821-22
	1805-06	1808-09	1811-12	1814-15	1817-18	1822-23
					1818-19	1823-24
					1819-20	1824-25

Note: The revenue year began in the month of September and ended in the month of August next year.

in the Ceded Provinces and the first one in the Conquered Provinces and Bundelkhand were made under the superintendence of the Board of Revenue at Calcutta 'separated by many hundred miles from the nearest of these provinces and naturally imbued with notions derived from the system that surrounded them' (viz., the Bengal system).¹ The Board failed to exercise any efficient control over the executive officers and settlements under them were based 'on an extremely imperfect acquaintance with the *mofussil* details of the several districts and the rights of the several classes of people'.² Therefore, besides the changes sought to be brought about in the relative rights of the various classes in the agricultural community by means of regulations, many changes were also caused by the misapplication of the laws and the abuses and malpractices connected with the enforcement of the laws.³

In view of these difficulties of supervision and efficient control on the revenue administration, a Board of Commissioners specifically for the Ceded and Conquered Provinces was created in 1807 on the occasion of concluding the third settlement in the Ceded Provinces and the second settlement in the Conquered Provinces and Bundelkhand, in order to ensure proper application of the principles prescribed by the regulations and to exercise general control over the collectors.⁴ Under the guidance of this Board, land settlements were made on the basis of much more adequate information than before. The Board scrupulously scrutinised the proceedings of the subordinate revenue officers, and checked some of the abuses rampant in the revenue administration in the preceding years.⁵ But it could neither undo what had already been done in the implementation of the laws nor change the principles prescribed by the regulations.

An important reason for the appointment of the Board of Commissioners was the promise of a Permanent Settlement which had been

¹ Holt Mackenzie's Memorandum, dated 1 July, 1819, para. 46, *Revenue Selections (1818-1820)*, p. 99.

² *Ibid.*, para. 457, p. 98.

³ In the Preamble to Regulation I of 1821 which was enacted in later years to remedy some of these abuses and malpractices, the prevalence of extreme maladministration in revenue matters was clearly admitted. See *Selections from East India Papers*, Vol. I, pp. 274-76.

⁴ The functions of this Commission were defined in Sec. IV of Regulation X, 1807; see *Bengal Regulations*, Vol. II, p. 63.

⁵ Governor General's Minute dated 21 Sept., 1815, in *Revenue Selections (1818-1820)*, p. 330.

made (in the Proclamation, dated 14 July, 1802, in the Ceded Provinces and of 11 July, 1805, in the Conquered Provinces and Bundelkhand). A Permanent Settlement in these territories was to be made on the expiry of the three short-period temporary settlements. The Board was required to ensure that the settlement of revenue was made with a full knowledge of the resources in the country before it was declared as fixed in perpetuity. The Board was therefore obliged to observe all possible caution in the engagements for revenue and in assessing the amount to be realised.

The Board of Commissioners soon discovered that the British regulations suffered from serious deficiencies in so far as they were ill-adapted to the existing conditions in the Ceded and Conquered Provinces. From time to time, they proposed laws more in conformity with the status of landed property and tenancy as it existed before the establishment of the British rule and thus sought to remove some of the artificiality of the British regulations. But all the difficulties reported on by the British officers in the enforcement of early regulations were ignored by the Supreme Government at Calcutta. And all the revenue settlements were made in accordance with the letter and the spirit of the regulations without any regard for the undesirable consequences that followed. It was only after 1815, under the pressure of certain circumstances discussed in a subsequent chapter, that attention was paid to these difficulties. In fact, revenue settlements after 1822 began to be made on the basis of entirely new principles as we shall discuss in the next chapter.

On the expiry of the ten-year period, two more short-period revenue settlements were made. These were in the nature of a mere continuation of the previous settlements and were also made on the basis of the same principles. Thus, till 1822, in all, five short-period temporary settlements were concluded in the Ceded and Conquered Provinces on the basis of earlier regulations. These settlements tended to create, accentuate and consolidate the changes in the state of landed property and tenancy which were sought to be brought about by the British laws. 'The broad outlines of the new form of land tenure . . . were thus set and hardened'¹ and it was found impossible to change this pattern later.

The general features of these early British revenue settlements and their consequences may now be examined in the context of this background.

¹ *Report of the U.P. Zamindari Abolition Committee*, p. 99.

(ii) *General Features of the Early British Revenue Settlements*¹

The first and foremost question in the revenue settlements was to determine the parties with whom engagements for payment of revenue were to be taken. The regulations contemplated that the settlement would be made either with 'zemindars or other actual proprietors' or with 'revenue farmers'.² In villages where the proprietors were absent or unwilling to engage, settlements were to be made with *muqaddams*, *pradhans*, or respectable ryots.³ In villages, where neither proprietors nor farmers were forthcoming, settlement was to be made *khas*, i.e., the officers of government were to make collections directly from each cultivator.⁴ The officers, however, preferred to lease out villages to revenue farmers than to hold them *khas* since the latter alternative involved loss to government.⁵ Therefore, *khas* settlement was resorted to only occasionally when no person was willing to engage for revenue.

The persons engaging for revenue according to the regulations were to be of two classes, i.e., proprietors and revenue farmers. The proprietors, under the regulations, were presumed to be vested with heritable, and transferable rights of private property in the soil.⁶ The revenue farmers were entitled only to collect the revenue of the land under their jurisdiction for the period of the settlement without having any claim to the right of private property in the soil. During the first three temporary settlements, the revenue farmers had also

¹ For full details of the proceedings regarding the early settlements, one has mainly to depend on the records preserved in the Record Room of the Government of U.P. However, some details are available in Holt Mackenzie's Memorandum, dated 1 July, 1819, in *Revenue Selections (1818-1820)*, pp. 102-21, in the "Report of the Board of Commissioners dated 13th April, 1808", in *Selections from the East India Papers*, Vol. I, pp. 6-44, and in other correspondence published in the several volumes of records referred to in this study.

² Sec. XXIX, Regulation XXV, 1803, in *Bengal Regulations*, Vol. I, p. 635.

³ *Ibid.* Curiously enough, settlement with the latter category of persons was regarded in the nature of a farming settlement, since *muqaddams* were somehow conceived as being of an inferior status and subordinate to the zamindars. See *Selections from Revenue Records*, 1873, pp. 58, 88, 120-23 and 175-77; also see "Letter received by Mofussil Commissioners dated 10th July, 1824" in the Records of the Mofussil Special Commission in the Record Room, Vols 8.

⁴ Sec. XXIX, Regulation XXV, 1803, *Bengal Regulations*, Vol. I, p. 635.

⁵ See Governor General's Minute dated 21 Sept., 1815, para. 95, in *Revenue Selections (1818-1820)*, p. 332; also see the "Report of the Board of Commissioners dated 23rd Aug., 1813" regarding the difficulties of *Khas* collection in *Selections from East India Papers*, Vol. I, pp. 207-09, also see "Revenue letter from Bengal dated 19th June, 1813" in *Ibid.*, pp. 176-79.

⁶ Holt Mackenzie's Memorandum dated 1 July, 1819, para. 349 together with footnote in *Revenue Selections (1818-1820)*, p. 80.

been granted the privilege of continuing to collect the land revenue for full ten years if the rights of proprietors in the farmed villages were not recognised at the time of the first settlement or their claim for revenue engagement as proprietors was not preferred to government within the first three years from the date of the Proclamation, i.e., 14 July 1802, in the Ceded and 11 July, 1805 in the Conquered Provinces.¹

It is important to note that the record of these settlements under the British administration was to be taken subsequently as the *prima facie* evidence of possession of property in land or its produce.² Hence, the entry of the name of a person in those records as a proprietor was of very great significance. But the nature of the property or the right of possession of the person whose name was thus entered was not clearly defined nor was it laid down that their claim to be admitted as a proprietor was to be fully enquired into.³

It will be evident that the persons who could be available for direct engagements for revenue were only those who were collecting the revenue under the immediately preceding governments. But, during the previous regimes, the right or privilege of sharing in the management of a village by becoming a party to the engagements with government was wholly distinct from the right of property in, or possession of, the soil of the village.⁴ The mere fact of a person's name appearing in the records of government as that of a person responsible for the collection or payment of revenue did not signify any right of property in the soil.⁵ This was because the system of village communities was yet in existence in the provinces when they came under the British rule.⁶ Usually, there was only one person from amongst the indigenous cultivating proprietors whose name was entered in the public records as the person who collected and

¹ Sec. LIII, Clause Third, Regulation XVII, 1803 in *Bengal Regulations*, Vol. I, p. 658; also see "Circular of the Board of Commissioners to Revenue Collectors dated 7th August, 1802" in *Henry Wellesley's Correspondence*, p. 80.

² Holt Mackenzie's Memorandum, dated 1 July, 1819, footnote to para. 405 in *Revenue Selections (1818-1820)* p. 90.

³ *Ibid.*, paras. 404, 405, pp. 90-91; also see "Letter of Board of Commissioners dated 11th August, 1818," in *Ibid.*, p. 215.

⁴ *Revenue Selections (1818-1820)*, pp. 216-17; also *Revenue Selections (1822-1833)*, p. 145.

⁵ "Final Report of the Mofussil Special Commission dated 11th August, 1825" in *Revenue Selections, 1873*, pp. 159-61 and 163-64.

⁶ Governor General's Minute dated 21 Sept., 1815, para. 82 in *Revenue Selections (1818-1820)*, p. 329. Also J. Thomasan's "Remarks on the Land Revenue Administration in the North Western Provinces", para. 21, in *Directions for Revenue Officers in the N.W.P.*, (Calcutta, 1858), p. 8.

paid the revenue. But he was only a *malguzar* (revenue engager) who stood on the same footing as a revenue farmer or an officer of the government. The circumstance of his name being entered in the public records was never held to convey any special privileges or exclusive rights of property to him as under the British system.¹

In a few *parganas* of some districts, State revenue used to be paid by the village communities not directly through one of their own members but through a class of superior landholders who held their tenure from the government on various terms.² Some of these persons were *rajas*, whose small territories had been merged in the Moghul empire.³ A few others were *muqarraridars* or *istamrardars* who paid a fixed revenue to the government and appropriated the rest of the realisations.⁴ But most of them were *talugdars* who had assumed the management of the villages in very recent years before the cession or conquest of the Provinces. The incorporation of the village communities into their *talugdars* had been brought about generally during the preceding regime through sales, transfers, mortgages, trusts and gifts made by the village zamindars in favour of *talugdars* in the face of the oppressive exactions of the *amils*.⁵ *Talugdars* also seized the properties under the authority of the *amils* in cases where the *talugdars* had stood surety for the revenues and had paid up the outstanding balances on behalf of the village zamindars or engaged on higher terms than the latter could offer.⁶ The deeds of sale, mortgage, trust or gift were exacted by the *talugdars* from the village zamindars by force or coercion. The latter yielded because they were impecunious or otherwise helpless and unable to resist oppression. These deeds were executed only to circumvent the oppression of the *amil* and were valid only so long as this oppression lasted.⁷

¹ 'To make such a person as an owner of the entire village would be similar to making over in absolute property to the individuals composing the Court of Directors of the East India Company all the stock belonging to the proprietors of the said Company; or to making a member of the House of Commons sole proprietor of all the lands in the county which returns him to Parliament,' *Metcalf Papers*, p. 37.

² See Correspondence regarding land tenures in the Ceded and Conquered Provinces in *Revenue Selections*, 1873, pp. 319-419.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*; also see pp. 160-61 and also refer to *Revenue Selections (1818-1820)*, pp. 172-93.

⁶ *Ibid.*

⁷ *Ibid.*

However, in the *taluqs*, in spite of the fact that the right of the village communities to directly engage for revenue was eclipsed by that of the *taluqdars*, their rights in land had not been subverted in the pre-British period. They continued to possess the right of perpetual occupancy of land and the privileges of payment of government revenue at customary rates.¹

As regards the revenue farmers, they came from all classes of society. In fact, a village headman, a government officer, a *raja*, or a *taluqdar* could all become farmers. A farming lease, before the British took over, was only a contract lease with the government for payment of definite revenue to the State and anyone who had the financial capacity and ability to manage the lands could engage as a revenue farmer. The *amils* could put any village under a 'revenue farmer' irrespective of whether its revenue was previously realised through a *taluqdar*, village zamindar, *raja* or any other person.

PARTIES ADMITTED TO REVENUE ENGAGEMENTS IN BRITISH REVENUE SETTLEMENTS

Out of these various classes available for engagements of revenue collection, the British officers concluded revenue engagements with the 'present possessors'.² These were a 'heterogeneous mass' amongst whom every description of middlemen and every kind of opposing interest was to be found.³ The same 'heterogeneous mass' was now continued for engagements of revenue. The same *tahsildars* who had been in the habit of defrauding former governments and oppressing village communities were employed as the medium of communication between the government and the engagers.⁴ The same records in which 'little regard was paid to the designation'⁵ or 'the title under which individuals contracted for the discharge of public demand'⁶ were taken as the basis for the determination of all rights in land and its produce. And the same *rajas*, *taluqdars*, *istamrardars*, *muqarraridars*, village *muqaddams*, *pradhans* and other zamindars who were employed as agents for collection of

¹ *Revenue Selections*, 1873, pp. 90 and 160.

² *Ibid.*, pp. 163-64.

³ Governor General's Minute of 21 Sept., 1815, para. 46 in *Revenue Selections* (1818-1820), p. 322.

⁴ *Ibid.*, pp. 322-23.

⁵ *Revenue Selections*, 1873, p. 90

⁶ *Ibid.*

revenue by former governments were now admitted to engagements for revenue by the British Government.

Since the impact of the British settlements on the large estates and single village estates was different, these will now be discussed separately.

REVENUE SETTLEMENTS IN SINGLE VILLAGE ESTATES

The first two settlements on all estates—small or large—were a summary process.¹ In respect of assessments, auction room methods were used and revenue engagements were taken from the highest bidders.² But in respect of the recognition of proprietary rights, the situation was worse. The settlements of small estates were generally left to be made by the *tahsildars*³ or, if made by British collectors, were concluded with the assistance of *qanungos*. With a view to simplifying and facilitating the official transactions, engagements were taken for one, 'estate' from one person, that person being the one who had been paying the revenue for the entire village.⁴ In this manner, entire villages became the private property of those persons who were owners of only a fraction of village lands and who were merely the representatives of a body of co-sharers in the village communities.

Further, it is important to note that these single persons had been indiscriminately recorded in the former records as *zamindars* or *muqaddams* or without any designation.⁵ But, under the British regulations, 'zamindar' was regarded as a proprietor of the soil⁶ and *muqaddam* as only a representative of a body of tenants on the lands of a superior landlord.⁷ The British collectors usually adopted the existing titles in the first revenue settlements without attaching any significance to their meanings or their actual substance.⁸

The consequence was that on such estates which under the former

¹ Moreland, *Revenue Administration in U.P.*, p. 32.

² *Ibid.*; also see *U. P. Zamindari Abolition Committee Report*, pp. 102-04; Dharam Bhanu, *op. cit.*, p. 40; and George Campbell, *op. cit.*, p. 156. In the earlier records, the references to the summary character of these settlements are too numerous to be mentioned separately.

³ Governor General's Minute dated 21 Sept., 1815, paras. 47, 51, 84 and 94 in *Revenue Selections (1818-1820)*, pp. 323, 329 and 331.

⁴ *Ibid.*, paras. 83 and 88, pp. 329-30; also see "Letter of the Board of Commissioners, dated 11th August, 1818," in *Ibid.*, p. 214.

⁵ *Revenue Selections, 1873*, p. 160.

⁶ *Ibid.*, p. 163.

⁷ *Ibid.*, p. 162-63.

⁸ *Ibid.*, p. 164.

government had been settled with persons bearing the designation of *muqaddam*, or with no designation at all, many persons unconnected with the villages got themselves recorded as 'zamindars' in collusion with the *qanungos*.¹ Those who could not succeed in getting themselves recorded as 'zamindars' in the first settlement sought to acquire those rights by bidding up the revenues when the estates were auctioned for payment of arrears of revenue or by becoming sureties for the persons from whom engagements for payment of revenue had been taken. In collusion with *tahsildars*, they arranged to show these estates for which they were sureties in arrears for revenue on the records, and paid the revenue on behalf of the recorded proprietors and thus acquired the rights of private property in those estates. Further, persons desirous of acquiring proprietary rights in land managed to acquire entire villages as their property by merely purchasing by private sale a fraction of the entire village lands, and assuming the management of the village themselves. When they purchased lands by private sale from persons who had been recorded in the records as 'zamindars', it was regarded in the laws that they had purchased the entire village. Gradually, by paying the revenue on behalf of the entire village, they got themselves recorded as single proprietors of the whole village. If this could not be possible, by deliberately keeping the revenue in arrears on their own share of land, they brought the lands for public auction and purchased it themselves thus acquiring full property in the village lands.

Also, in the case of villages, of which the proprietors were either absent or unwilling to engage because the assessments were too heavy, other persons unconnected with the villages secured the right of management as zamindars or as revenue farmers. And the latter, by adopting similar methods as mentioned above, acquired the rights of individual private property in the soil of such village estates.²

In fact, even the decision whether a village should be settled with a proprietor or a revenue farmer lay with the *tahsildars* and *qanungos* because it was entirely by their advice that the British collectors took engagements for revenue. And they, being fully conversant with the British revenue regulations and their consequences, naturally secured as much benefit from their position as they could. They got their own friends, relatives and themselves recorded as proprietors of a large

¹ *Ibid.*, pp. 164-65 and 175-76.

² See Governor General's Minute dated 21 Sept., 1815, in *Revenue Selections (1818-1820)*, pp. 329-30.

number of villages. They let many estates in farm with a view to keeping those estates deliberately in arrears of revenue on the records and purchasing them themselves or in the name of their relatives and friends by putting them to public auction. In this way, they acquired full proprietary rights in the village estates. Therefore, many estates were let in farm at the first settlement, although the proprietors were not only forthcoming and in actual possession of their lands, but also anxious to engage for them.¹ Many estates were given in farm on the unfounded allegation that the proprietors, although present, had declined to engage. Estates were also given in farm because the village zamindars could not readily agree among themselves in the choice of a manager or a representative for the whole estate.²

The *tahsildars* deliberately admitted and recorded the names of fictitious persons, who were either non-existent or had nothing to do with revenue collection, as ostensible *malguzars* having proprietary titles in many villages. They also admitted as proprietors many real persons who had previously no proprietary rights in the villages. Later, after a year or two, by deliberately keeping such estates in arrears for payment of revenue, and bringing them up for public auction, they purchased these villages themselves or in the name of their relations or dependents for nominal amounts.³

In collusion with outside speculators, they also assisted the latter in securing through various illegal devices the management of many villages under proprietary engagements. Advantage was also taken by these persons of the right of private sale assumed to have been vested in the newly recognised single proprietors. Since a village zamindar who had been recorded as proprietor for a village and with whom engagement for collection and payment of revenue had been made was regarded as the proprietor of the entire village and not merely of a fraction of its land, outside persons interested in acquiring proprietary rights in villages purchased for nominal consideration a share of their rights.⁴ Later, by deliberately defaulting in the payment of revenue on these estates, the interested persons purchased them in entirety at public auctions and thus secured private property rights in a large number of villages. If this could not be possible,

¹ *Ibid.*, p. 331.

² *Ibid.*, p. 331.

³ *Revenue Selections*, 1873, pp. 181-83.

⁴ These sales were fictitious and illegal in so far as the persons who sold the lands were not entitled to sell the entire estate but only such of its portion which belonged to themselves. Instead, they sold either the entire village or such parts as did not belong to them.

many villages in which individual sharers had been admitted as proprietors were falsely declared as having defaulted in the payment of revenue and such estates were put up to public sale. And the purchasers of these estates were generally the *tahsildars* themselves, their relations and dependents or colluding outside speculators.¹

Thus, the *tahsildars* and *qanungos*, subsequent to the cession, pursued the same methods for creating or extending their landed estates as were practised under the former governments by the *amils*, *taluqdars*, and other persons who were intermediaries between the government and the proprietors of the soil. If there was a difference, it was only in that under the British laws, the stimulus to adopt such dubious methods was much greater than under the former governments, since, unlike the preceding rulers, the British laws permitted the acquisition of a private individual right of property in the whole *taluqs*.

The result of all these proceedings connected with the admission of different classes of persons for revenue engagements, and of the private and public sales of lands designed to acquire rights of full private property, was an eclipse of the hereditary rights of village zamindars and *khudkasht* ryots in land or its produce held for centuries past in a large number of villages. From the very inception of the British rule, property rights in many villages were transferred to the speculating merchants and revenue farmers who had come to the Ceded and Conquered Provinces from Benares and Calcutta and operated through their agents on a large scale.² These persons were familiar with the principles of British regulations as followed in Bengal and had naturally come to take advantage of their expert knowledge in the new provinces as well.

Thus, the main consequence of the first two revenue settlements in the Provinces in single village estates was that the ownership of land was 'forced into larger masses' and concentrated in the hands of a few landed proprietors from amongst the former revenue collecting classes or outside speculators. Such ownership was foisted upon the village communities in violation of the customary rights of ownership and occupancy vested in their members. Villages which were amalgamated into the larger estates created by *tahsildars* or speculators, passed in individual property to the newly created proprietors.

¹ See Preamble to Regulation I, 1821, in *Selections from East India Papers*, Vol. III, pp. 274-76; also see *Revenue Selections*, (1818-1820), pp. 173, 214-17.

² *Revenue Selections* (1818-1820), p. 329; also see pp. 208, 214-16 and 331.

Even property rights of those villages which were not so usurped were transferred to the single individuals from amongst the village zamindars who were admitted as zamindars of the entire village, or were deemed as such by virtue of their having been recorded as zamindars in the records, even though they were owners of only a small fraction of the village land in the pre-British period.

In later settlements concluded under the direct supervision of the Board of Commissioners, the Board adopted the principle of maintaining the rights which had once been recognised and recorded.¹ They relied on the same erroneous records which had been grossly imperfect and were even falsified at the time of the first settlements by the *qanungos* and *tahsildars* in their own selfish interest. The creation of certain rights in law in favour of persons who had engaged at the first settlements and were to be continued for the entire decennial period² further debarred the recognition of proprietary rights of many village zamindars who had been excluded from the settlements by fraud, collusion, or simple default and had thus been divested of their rights to property without even their knowing about it.

The rights vested in the new purchasers of lands either at public auction or by private sale further³ restricted the powers of the Board of Commissioners in remedying these evils even when they had been discovered. An act of transfer of property either by the government or by a private individual was regarded as sacrosanct under the British regulations and property acquired by such transfer could not be declared as void, because it was acquired in perfect accordance with the laws promulgated by the British Government. If the latter was to nullify the transactions made in consonance with its own laws, the faith of the people in the government could be seriously undermined and may have led to political embarrassments. The force of law and the permanency of property rights which backed these various transactions, whether in respect of original engagements for revenue or of private and public sales, helped to maintain in the future years all the abuses that accompanied the British rule in its early years.

In villages which had been farmed out at the earlier settlements and in which the Board of Commissioners were entitled to restore the

¹ *Ibid.*

² See Chapter IV, Section III.

³ See Chapter IV, Section II; also see *Revenue Selections (1818-1820)*, p. 208.

village zamindars after the expiry of the decennial period, the Board admitted the village zamindars to direct revenue engagements as proprietors in place of the revenue farmers. But, again, with a view to keeping down the number of persons as far as possible, engagements were taken only from one person in a village who was thus made an individual proprietor of the entire village as at the first settlements.¹ In subsequent temporary settlements, the Board, in the case of these estates as in others, adopted the principle of admitting other co-sharers as proprietors only if the existing proprietors were willing and gave their consent to the former's admission. The latter generally opposed the inclusion of other sharers in the category of persons who enjoyed the rights of management of the estates. They cherished their new rights of property in land and anticipated large economic benefits after the conclusion of the permanent settlement. The non-engaging co-sharers were thus left to seek their redress in the courts where they were invariably 'non-suited',² since the courts considered the right of engagement for revenue as a matter depending entirely on the discretion of the revenue authorities and not within the competence of the Courts to decide.³

It may be added that oppressive and extortionate revenue assessments also facilitated the exclusion of many village zamindars from revenue engagements and a rapid transfer of landed property by private and public sales. The desire to extract the maximum revenue before declaring the settlement permanent, impelled the British officers to raise the revenue assessments to as high a level as possible. Consequently, many village zamindars could not agree to pay the amounts settled by them and such villages were generally let out to revenue farmers or settled for revenue with speculators.⁴ A large number of public sales for arrears of revenue also took place mainly because the village communities could not pay the revenue assessed. Whole villages consequently passed into the hands of purchasers at auctions.

However, the impact of high revenue assessments was only an aggravating circumstance. It only accelerated the process of amalga-

¹ See "Letter of the Board of Commissioners dated 11th August, 1818" and the Minute of the Governor General dated 21 Sept. 1815, in *Revenue Selections (1818-1820)*, pp. 214-18 and 328-36 respectively.

² *Ibid.*

³ *Ibid.*

⁴ *Revenue Selections (1818-1829)*, pp. 102-21.

mation of the village communities into larger estates. The main abuses and consequences arose from the operation of the very principle of admitting individual persons to revenue engagements as individual proprietors for the entire estates for which they engaged, and from the whole tenor of the British regulations, by which a heritable and transferable right of private property in the soil was vested in individuals and which had been made subject to alienation at the instance both of the State as well as the individuals possessing it.

REVENUE SETTLEMENTS IN LARGE ESTATES¹

On large estates, the village communities had been paying their revenue under the former government through their headmen, not directly to government officers but to other intermediaries, who in turn paid a portion of the revenue received to the government. The British officers took proprietary or farming engagements from these intermediary landholders with extensive lands under their control.

As already mentioned, this class of landlords included a variety of persons who had widely varying tenures. Under the former government, this class as well as the government officers had been appropriating a large share of the State revenue and had become very powerful. In the very first years of the British rule, an important problem for the British officers was to subjugate them, to settle the revenue with them and curb their oppression of the village communities.² The policy was to make them agree to pay as large an amount of revenue as possible and observe the rules and regulations laid down in respect of enforcing their demand on the villages held by them.

However, the interference of the early British revenue administration in the affairs of their estates did not extend beyond the settlement of revenue. Many of the bigger landholders, in fact, resented even such limited interference as was inevitably necessary to ascertain

¹ For full details of these proceedings as well, the most exhaustive source are the records of the Board of Commissioners in the Record Room at Allahabad. However, a substantial portion of these is available in Holt Mackenzie's Memorandum dated 1 July, 1819, in *Revenue Selections (1818-1820)*, pp. 102-21.

² See Proceedings of the Board of Commissioners for the years 1803-06 in the Record Room. Therein, exact details of the individuals and estates thus sought to be subjugated are available. In particular, see the proceedings connected with the cases of Raja Chhutter Sal of Thettiah in Etawah, Nonud Singh of Anoop Shahar, Addkurn of Furruckhabad, and Sheo Lal of Bareilly.

the amount of revenue which should be levied on their estates. In those days of early occupation, considerations of political expediency also weighed with the British Government.¹ The British officers were cautioned against any detailed probe into the extent of their lands and the sources of their revenues.

Proprietary engagements were concluded with these landholders on the basis of long possession, deeds of sale, mortgage, gift, or trust or of other forms of assignment.² Grants from former ruling powers were also made a basis for admitting their claims for proprietary engagements. As already mentioned, the *taluqdars* had extorted various kinds of deeds from the village zamindars when the latter were handicapped by the extreme oppression of the *amils*. Most of these deeds were found to have been executed on dates within a few years before the cession. Probably, such deeds were extorted under the influence of the British regulations in the adjoining provinces of Bengal and Benares and in the hope that British rule would ultimately be established in Oudh as well.³ It is also probable that some of these deeds were obtained even after the cession in view of the importance given to them under the new regulations. Similarly, most of the grants claimed to have been made by former governments were actually made by the *amils* without proper authority with a view to annexing the villages to the estates of the *taluqdars*.⁴

After the cession, landholders with extensive lands, especially the *taluqdars*, were greatly interested in concluding proprietary engagements over as extensive an area as possible. They claimed proprietary rights over all the lands on which they had long possession in the sense that they had been engaging for the collection and payment of revenue under the former government till the time of the cession.

¹ See in particular proceedings connected with the settlements of revenue in districts Etawah and Saharanpur; also see "Report of the Board of Commissioners dated 13th April, 1808" in *Selections from East India Papers*, Vol. I, pp. 6-44. Also see "Report of Henry Wellesley dated 10th February 1803" to the Bengal Government regarding the first triennial settlement of the Ceded Provinces where he wrote: "...although I was... apprehensive that this Settlement had been made upon an erroneous calculation of the existing assets of the country and that the amount would be with difficulty realised, I determined not to annul the engagements which had been recently concluded by the collectors from an apprehension that any immediate interference on my part might tend to weaken their authority which at that critical period it appeared to me so necessary to support." *Henry Wellesley's Correspondence*, p. 113.

² See Orders of Government dated 2 Sept., 1808 in *Revenue Selections* (1818-1820), pp. 179-88.

³ *Ibid.*, pp. 172-75.

⁴ See Correspondence connected with land tenures in *Revenue Selections* 1873, pp. 391-419.

Otherwise they claimed proprietary rights on the basis of the various deeds and grants.¹ In the early settlements those documents were not scrutinised thoroughly and proprietary engagements were concluded with them in respect of the lands which they claimed. In addition, they were also allowed to engage as revenue farmers over extensive areas.

It is unnecessary to add that in the case of lands under proprietary engagements they were vested with rights of private property in the soil. But in the case of farming estates too, they had been given the right to continue in engagements for the first three temporary settlements, unless the rights of the proprietors had been recognised within the stipulated period.² It is obvious that since on such estates the village zamindars had no direct concern with the government officers in regard to the collection and management of revenue, they were not recorded in the former revenue records as proprietors. Hence, they were necessarily excluded from revenue engagements for the first ten years, after which their status could be restored only if the estate had not been in the meanwhile sold by public auction or private sale to some auction purchaser or any other person. And it did happen in many cases that such farming estates were brought to public auction for arrears of revenue. These, once purchased at a public auction or by private sale, became the exclusive property of the purchaser in defeasance of all rights which might have belonged to other classes of persons before the sale.

Thus, on large estates also, in villages settled under proprietary engagements with landholders, the rights of the village zamindars and the other classes of the village communities were merged into those of the newly recognised proprietors. And in villages held in farm, such merging was brought about by means of public or private sales.³

However, since separation of such villages as were only nominally included in the extensive *taluqdaris* was recognised in law, the Board of Commissioners in 1808 sought the instructions of the government about the rules for such separation.⁴ They proposed that the right of separation should depend on the village zamindars possessing 'a clear and independent right of property in the soil of the lands

¹ *Ibid.*; also see pp. 102-21.

² See Chapter IV.

³ See Governor General's Minute dated 21 Sept., 1815, in *Revenue Selections (1818-1820)*, pp. 341-42.

⁴ *Ibid.*, pp. 172-75.

comprised in the villages which were appendant to the estate of a superior landholder'.¹ But the Bengal Government, probably under the influence of Bengal principles, negated this suggestion and issued instructions according to which all the *taluqdars* in possession at the time of the cession were to be maintained irrespective of whether they were actually entitled to hold their estates in proprietary right.² They were to be maintained if the deeds by virtue of which they claimed proprietary rights in their estates were found to be of dates posterior to the establishment of the British rule, in whatever manner they might have been obtained.³ Only in a few cases where the *taluqdars* might not claim proprietary rights over the villages, or might refuse to agree to the amount of assessment or where their claim to the proprietary right might not be adequately substantiated by long possession, deeds, or grants, separation of villages and the recognition of village zamindars as proprietors was permitted and direct engagements for revenue could be taken from them.⁴

These instructions led to the separation of a number of villages from extensive *talucs* which had existed under the former governments or were created after the cession. Such separation was confined only to a few instances. Villages were actually separated only where possession, mortgage, deeds of sale, trust or gift, etc., were not contrary to the right of admission of the village zamindars to revenue engagements.⁵ Some villages were separated under these rules in Aligarh and Etawah and a larger number in Gorakhpur where the *rajas* themselves conceded that the holders of the *Birteea*⁶ tenure under them were actual proprietors of land. In the rest of the districts, the intermediaries both at the time of the cession and

¹ *Ibid.*

² *Ibid.*, pp. 179-87.

³ This was done with a view to validate all transactions connected with transfers of land either by way of sales, gifts or mortgages, which had been entered into after the establishment of British rule, since the British laws themselves declared such transactions as valid in law.

⁴ *Revenue Selections (1818-1820)*, pp. 179-87.

⁵ *Ibid.*, pp. 102-21.

⁶ *Birteea* tenure in Gorakhpur originated with the grants, made by local *rajas* to village communities, of heritable and transferable rights in land and its produce including the produce of fisheries, forests, etc., subject to the payment of stipulated amounts of revenue, either fixed for a period or variable from year to year according to the extent of area cultivated. These grants were generally made over wastelands and in course of time they became settled villages. These tenures were made through a deed called the *Birtpatra*. The word *britti* or *vritti* means maintenance, or means of subsistence and it was applied to assignments of money or land made for the purpose of maintenance or subsistence. For full details of this tenure, see *Revenue Selections, (1822-1833)*, pp. 131-49.

those created after the cession through public auctions, private purchases or by admission as proprietors at the time of settlement were maintained.

Even in the villages separated from the extensive *taluqs*, revenue engagements were taken from single persons leaving all other co-sharers of a village community to seek their rights in vain in the British courts.

(iii) *Consequences of the Early British Revenue Settlements*

The consequence of the British land revenue settlements was 'an extensive and melancholy revolution in the landed property of the country',¹ and a basic transformation in the economic relations of the various classes in the agricultural community. These settlements were so made as to confer the new rights of private property in land or its produce on the class of former intermediaries, revenue farmers, and government officials. They had enjoyed so far only a portion of the State share of the gross produce of agriculture. The extent of such share was fixed by law and custom but varied in practice. But their rights had not so far extended to the acquisition of lands—a consummation which was made possible by the British regulations.

The wealthy and monied classes, due to the rapacity of former governments; were not interested in the management of land and in holding rights of collection of revenue in the pre-British period. But the new rights of private property in land vested in the persons who collected the revenue attracted them since it provided a remunerative source of investment for their capital. The new rights of property as conferred by the British superseded all the pre-existing customary rights of property in land or its produce so far vested in the village communities and its members which constituted a great bar to the investment of capital in land. In so far as the pre-existing tenures consisted of a heritable and transferable right of perpetual occupancy of lands and the enjoyment of all the residual produce left after payment of the State revenue vested in the vast number of peasants in the village communities, it prevented all accumulation of wealth in the hands of landholders except in so far as it could be got hold of by means of direct oppression. But now the new

¹ Holt Mackenzie's Memorandum dated 1 July, 1819, para. 453, in *Revenue Selections (1818-1820)*, p. 98.

proprietors enjoyed not merely full rights of private property in land including the right to extract maximum rent from tenants and to evict them, but also secured exclusive rights of private property in wastelands, pastures, forests and fisheries, etc., which were formerly the joint property of the village communities as a whole. With these substantial advantages having been conferred upon them in law, the wealthy and monied classes could calculate their gains from the investment of their capital in land, which were to be secured for them with the full strength of the British laws and courts.

However, as the result of these settlements, 'millions of people were deprived of the rights that they and their ancestors had enjoyed' for centuries.¹ The rights of village zamindars and resident ryots were dissolved over extensive areas and new rights were conferred on the newly created landed proprietors by means of which all the substantial rights of the former were transferred to the latter. In small villages, extensive *talucs* were created by *tahsildars* and *qanungos* by usurping the rights of a large number of *pattidari* and *bhaichara* village communities. Rights of non-engaging co-sharer village zamindars and other cultivators were lost to the single co-sharer village zamindars who were admitted to the revenue settlements as individual owners of the entire villages of which they were merely the village headmen or representatives.² Purchasers of land at public auctions or through private sale also acquired rights over the entire village community. Similarly, in large estates, the former intermediaries and the revenue farmers grabbed the rights of the village communities which had been paying their State revenue to former governments through them.

This revolution in property relations involved not merely a redistribution of the current produce of agriculture amongst the various classes in the agricultural community, but also laid down a different pattern for the distribution of all incomes accruing from agriculture in the future. It will be recalled that the large share of gross produce taken away by the former governments made the State a potent factor in the distribution of the national income.³ It was equally true during the British period. By effecting a change in the compo-

¹ *U.P. Zamindari Abolition Committee Report*, p. 81.

² 'Of the villages originally Putteedaree and Bhyachara, many have already, under the operation of the system introduced by the British Government, assumed the character of villages belonging to a single proprietor.' Minute by J. E. Colebrooke dated 12 July, 1820, in *Revenue Selections (1818-1820)*, p. 208.

³ See Chapter II.

ision of the classes who were admitted to revenue engagements, the British Government not only brought about a redistribution of current produce of agriculture amongst the different classes but also provided that the future incomes from agriculture may also accrue into the hands of classes whom the British Government wanted to become the instruments of agricultural development as well as the pillars of social and moral progress in India. All the benefits that were so far enjoyed by the village zamindars in the form of *malikana*, *zamindari rasoom*¹ or *nankar*—which were all by way of deductions from the State revenue—were now transferred to the new proprietors by law. The concessions enjoyed by the different classes of the village communities in the form of differential rates of revenue assessment on their lands could now be withdrawn from them by the new proprietors. The security of occupancy that the resident ryots had enjoyed before now disappeared and the fixity of rent which was a corollary of the security of occupancy could no longer be maintained in view of the nature of the rights of property conferred by the British regulations. Much larger benefits were now left in the hands of the new proprietors who thus not only secured a larger share in the current produce of agriculture, but also became entitled to claim an increasing share of all the benefits and incomes that arose in agriculture in future years.

It may be contended that the economic pressure which the new proprietors exercised on their under-tenants could not have been significant in the period immediately after these settlements because of the absence of pressure of population on the land, since there was plenty of wasteland to go round. But the availability of wasteland is no bar to the new proprietors usurping the benefits enjoyed previously by the village communities. Since all land inclusive of the wastelands was now made the private property of individuals and no longer remained the joint property of the village community, any extension of cultivation on the wasteland could be possible only after the payment of the rent demanded by the new proprietors. Even if the rent demanded by the new proprietors for extension of cultivation on the wasteland was low, it was no check on their increasing the demands for rent on the already cultivated land since the peasants, living in already settled villages, and regarding themselves as possessing the rights of perpetual occupancy in distinct parcels of land valued by them very much and sanctified by the ties of

¹ See Chapter III

heredity, would not easily move and settle on wastelands. Moreover, even if they gave up the already cultivated lands to take up cultivation on wastelands, the new proprietors would not offer the wastelands to such cultivators on terms less onerous than those on which they were already cultivating. Therefore, low rents on wastelands could be beneficial only to those tenants who had previously no land to cultivate but not to those who were already settled on land.

Further, on already cultivated land, the proprietors could easily exercise economic pressure on the peasants if the latter were enjoying a share of agricultural produce which was more than the bare minimum necessary for their subsistence. After leaving such bare minimum of produce as was sufficient to maintain the tenants, the rest could all be appropriated by the new proprietors by raising the demands for rent. The peasants had already been accustomed to arbitrary increases of revenue demand under former governments and the same arbitrariness could now be lawfully exercised by the new proprietors.

Thus, the reasoning that the availability of wasteland would be a check on the economic pressure that could be exercised by the new proprietors would be based on the implicit assumption that, under the former governments, the cultivators derived only a bare minimum subsistence from the land and that the former revenue collecting classes appropriated all the economic surplus beyond the minimum necessary for the subsistence of the cultivators. But, as already mentioned in an earlier chapter, the village communities in the past did not function at the level of minimum subsistence. On the contrary, they enjoyed customary rights and immunities as the result of which there had arisen a certain hierarchy of economic and social status and different strata of village society had enjoyed varying degrees of economic prosperity depending upon their social status. In spite of all the oppression of the former rulers, the village communities on the eve of British rule were not in a state of abject poverty. All the oppressions of former *amils* had not resulted in a state of complete degradation of this hierarchy of social and economic status and in the appropriation of the entire economic surplus. And there was scope for the new proprietors to exercise their new rights in such a manner as to augment their current incomes, as well as to secure a larger share of the increases in incomes that accrued in subsequent years.

Of course, due to the heavy assessments of revenue obtained by the British administration during this period, the new proprietors

could not have augmented their incomes during this period considerably. The possible violent resistance of the village zamindars was also a limiting factor. But, for the new proprietors, a clear vista had opened out of the promise for a perpetual limitation of the government revenue demand and the possible increases in rents which were to follow the development of the Indian economy, in general, and the development of agriculture in the Ceded and Conquered Provinces in particular.

Over the two decades until 1822, the new proprietors exercised their new rights as much as they could in the face of the resistance of the village communities. They were always prone to exercising their despotic powers over the cultivators. Now, they acquired the right to exercise such powers under the law. And they made full use of both their powers and privileges. They raised assessments of rent on the new tenants,¹ appropriated the natural produce of the joint property in the village communities and discontinued the various practices by which latitude was given to the village institutions under earlier governments in the matters of revenue assessment and collection.

These developments tended to 'disjoint the whole frame of village societies',² 'to deprive the multitudes of their rights and property which their families had held for ages and to reduce a high-spirited class of men from the pride of independence to the situation of labourers on their paternal fields'.³ Throughout the two decades, this process of dissolution of the village communities continued, although it was gradual and slow in so far as it had begun only in 1803 and 1805 in the Ceded and Conquered Provinces respectively. Litigation, fraud and violence which were the inevitable concomitants of this process were rampant under the British revenue and judicial administration. The enormity of these problems overwhelmed the British officers connected with the departments of revenue or with the dispensation of civil and criminal justice. But the process once initiated proved to be irresistible for the rulers as well as the ruled, since the economic motive forces which they released and by which they were sustained were too strong to be countered.

In one sense, the British revenue settlements can be said to have

¹ 'As a natural consequence of the arbitrary power enjoyed by the zamindars, rents were in many parts of the country run up to the highest rates, which the cultivators could pay and retain a bare subsistence for themselves and their families', C. D. Field, *op. cit.*, p. 675.

² Thomas Fortescue, *op. cit.*, p. 121

³ Holt Mackenzie's Memorandum, dated 1 July, 1819, para. 550 in *Revenue Selections (1818-1820)*, p. 117.

maintained the continuity of the trends established by the earlier governments. The same classes and officers which had exercised almost despotic powers over the villages with a view to securing a share in the agricultural produce continued under the British rule. But the British rule can also be said to have accentuated the trends which had been gaining momentum during the period anterior to the British rule. It also gave the process of change a new direction by subjecting the agrarian relations to the regulation of such impersonal forces¹ as a code of laws which introduced the system of free alienation of land by the State or by the proprietors, thus bringing into existence an open market in land.

It would be evident that the British regulations tended to transform the previous forms of property in land or its produce and the class relations in the agricultural community. The land settlements were governed by codified laws and the rights, interests and privileges of all classes were determined by them. No other principle or usage or custom outside these laws was taken into account by the British officers in the matter of admission of parties to revenue engagements and of regulating the course of civil administration in the country.

The introduction of British regulations provided a strong motive force which undermined the basis of pre-existing property institutions and the socio-economic framework. This motive force was the acquisition of private property in land. The former revenue-collecting classes and persons with wealth now became actively interested in the acquisition of the new rights of property in land and its consequent benefits. The promise of a permanent settlement after ten years intensified their interest in investment in land. Further, the temporary rights which had been conferred on persons engaging for revenue in the very first settlements, whether as proprietors or as revenue farmers, and which were continued for the entire decennial period, proved to be a strong incentive for them to undertake engagements for revenue. The provision of annulment of all tenures on lands sold at public auction for arrears of revenue also created a very powerful interest in the acquisition of landed property.²

¹ *Fifth Report*, Vol. I, pp. 98-99.

² 'By sale of land for . . . trifling arrears of revenue, which might be realised in subsequent years, the hereditary rights of families which have existed for centuries are annihilated, and a new right of absolute property established in favour of other persons, purchasers of proprietary right at the public auction; by which purchase the original proprietors or zumeendars must either become the labourers of the new proprietor, or quit their houses and lands, their country and home, for ever.' *Metcalfe Papers*, pp. 37-38.

For the same reasons, the village headmen or other powerful coparceners in the village communities, so far accustomed to undertake the collection of the State share of agricultural produce, naturally now became inclined towards acquiring the whole villages as their own private property. The revenue farmers who consisted of a variety of classes with varying interests in land and its produce under the former governments suddenly became interested in becoming also the proprietors of the estates which they took on farm.

Under the impact of these laws, a gradual process of transformation in land tenures and the class relations in agriculture was set in in the Ceded and Conquered Provinces. The heterogeneous classes connected with the collection of revenue and management of lands under the former governments were gradually transformed into the western type of landed proprietors, in respect of the nature of rights and privileges enjoyed by them. The classes of village zamindars, resident ryots, *pahi-kasht* ryots, etc., who had no longer any share in the collection of revenue and management of land were gradually transformed into a class of tenants-at-will working on the lands of landlords.¹ At the same time the monied classes were gradually drawn into the agrarian economy as landlords who replaced even the traditional revenue-collecting classes. Numerous money transactions naturally came to be associated with the exercise of the rights in land or its produce.² We thus observe the gradual emergence of a land market in the Ceded and Conquered Provinces,—which means that rights of private property in land could now be sold and purchased on the basis of calculation of gains and losses from it—as a direct consequence of the British rule.

However, this process of transformation was by no means smooth nor entirely without serious social repercussions. The non-engaging village zamindars and other members of the village communities resisted the imposition of private property rights on their own parcels of land and the encroachment on their customary rights in the joint village property. They challenged the right of the auction purchasers to take possession of their estates. They rose up in defiance and made it difficult for them to collect rents on their estates. They sought relief in the courts of revenue collectors as well as the judges

¹ '... there can be little doubt that under the influence of English political economy, the raiyats were gradually coming to be regarded as tenants in the English sense.' C.D. Field, *op. cit.*, p. 675.

² Minute of Governor General dated 20 Jan., 1832, para. 10 in *Revenue Selections (1822-1833)*, p. 354.

to be able to secure their own rights of property but failed. There were conflicts whenever the new landlords, particularly when they happened to be strangers to the village community, tried to secure possession of their newly acquired estates. Within the villages, there were feuds centering on the questions of rights of property and payment of state revenue. Consequently, numerous difficulties were faced by the British revenue and judicial administration in the implementation of these regulations which led, together with several other forces, to a change in the system of laws and revenue settlements after 1822, as we shall see in the next chapter.

Retreat from Permanent Settlement and Shift Towards a New Land Revenue Policy

(i) *Reasons for the shift towards a New Land Revenue Policy*

IT WOULD be evident from the account given in the preceding chapter that the revenue settlements in the Ceded and Conquered Provinces, during the first two decades of the British rule, were made on the same lines as in Bengal. The laws, the procedures of settlement as well as the convictions, prejudices and opinions of most British officers in the Bengal Presidency were under the very strong influence of the principles of the Bengal Permanent Settlement. In fact, the object of the Bengal Government was 'to assimilate the system in the Ceded and Conquered Provinces with that pursued in Bengal'.¹ They had therefore declared that a Permanent Settlement was to be concluded at the expiration of a period of ten years, during which period three short period, temporary settlements were to be made.²

Further, without even waiting for the ten-year period to expire, the Bengal Government resolved to anticipate the period originally fixed for the conclusion of a Permanent Settlement and declared, by Regulation X of 1807,³ that the *jumma* which might be assessed in the last year of the temporary settlements then ensuing should remain fixed for ever, provided the arrangement received the

¹ Holt Mackenzie's Minute, para. 221, in *Revenue Selections (1818-1820)*, p. 60; also see Baden-Powell, *Land Systems of British India*, Vol. II, pp. 15-16; also see George Campbell, *op. cit.*, p. 155.

² The Permanent Settlement was to be made for such lands, as might be in a sufficient state of cultivation to warrant the measure, on such terms as Government deemed fair and equitable, and with the same persons, who had been engaged with in the three short-period temporary settlements, if they were willing to engage, and if no others who had a better claim came forward to undertake revenue engagements. *Ibid.*, paras. 5 to 10, *Revenue Selections (1818-1820)*, p. 10; also see Richard Clarke, *Bengal Regulations*, Vol. I, p. 635.

³ Richard Clarke, *Bengal Regulations*, Vol. II, pp. 62-63.

sanction of the Court of Directors.¹ And a special commission consisting of Messrs. R. W. Cox and Henry St. George Tucker was appointed to superintend the settlement operations.

In the meanwhile, however, the opinions of the Home authorities in England, both in the Board of Control and in the Court of Directors, had been undergoing a change.² This change was initially due to 'some practical inconveniences', 'mistakes', 'injustices', and 'evils' of the Bengal Permanent Settlement which were experienced or discovered within the few years of its conclusion. The defects of the Bengal Permanent Settlement were found to be 'grave', 'serious', and 'enormous', and extended to all branches of the British administration, viz., the revenue, the judicial, and the police. Its principles were found to have subverted the ancient native institutions and customs regarding landed property. Consequently, doubts about its soundness in theory and expediency in practice began to assail the minds of the Home authorities within a few years of its actual operation in Bengal. Its failure to achieve all the objectives envisaged by Lord Cornwallis, viz., a regular and steady flow of revenue, security and protection of the rights of all the agricultural classes and the permanency of the demands of landed proprietors on the ryots, led the Home authorities to question its fundamental premises. They began to look for an alternative mode of revenue settlement by which the 'practical inconveniences' of the Bengal Permanent Settlement could be avoided, its 'mistakes', 'evils', and 'injustices' eliminated and its basic advantages retained.

Incidentally, during those very years, an alternative mode of revenue settlement, known as the *ryotwari* system, was developed by the officers of the Madras Presidency. In contrast to the Bengal mode of Permanent Settlement, the *ryotwari* mode appeared to be more sound in theory, expedient and beneficial in practice, and more in accordance with the native institutions, customs and manners of the people. Its guiding principles as enunciated by its chief exponents, viz., Thomas Munro and W. M. Thackeray, in their 'elaborate and able reports', tended to prove that it was far superior to the Bengal system from the point of view of the fiscal interests of

¹ Accordingly the quartennial settlement of the Ceded Provinces and the second triennial settlements in the Conquered Provinces and Bundelkhand were to be provisionally permanent, subject to the approval of the Home authorities.

² 'The Home authorities, in the years 1801 to 1809, had evinced a disposition more and more adverse to an early extension of the Bengal Permanent Settlement.' John Sullivan's Observations Appendix No. 8, *Report of the Select Committee*, 1832, p. 51.

the British Government, the economic interests of the ryot and of the promotion and development of agriculture. Consequently, the Home authorities, already assailed by doubts about the fundamental premises of the Bengal mode of revenue settlements, were 'captivated'¹ by the new system, and they recommended its adoption in all their new territories, not only in Madras, but also in Bengal and Bombay. The discovery of the village communities in the Ceded and Conquered Provinces, and their close resemblance to the pattern of agrarian rights set up in Madras further strengthened their desire for applying the *ryotwari* principles of revenue settlement in those provinces.²

The Bengal Government, however, was not prepared to admit the failure, the weaknesses or the deficiencies of the policy of Permanent Settlement. According to them, *a priori* reasoning as well as practical operation had justified its 'soundness' in theory, and dictated the 'urgent necessity' of its earliest extension into the new territories. To them, its 'expediency' and 'soundness' was 'beyond question'.³ And, therefore, the change in the opinion of the Home authorities was incomprehensible to them. The result was that a long debate started between the Home authorities and the Bengal Government on the merits and demerits of the Bengal Permanent Settlement.

This debate raged for well over a decade. In this period, the Home authorities 'endeavoured to enforce' upon the Bengal Government a course of policy which was diametrically opposed to their basic convictions and entire experience as well as to the opinions of the English mercantile houses in Calcutta.⁴ But while enforcing their orders firmly, they also placed before the Bengal Government the grounds on which their decisions were founded. And these they were able to find in the reports of the provincial officers charged with the local administration of the revenue and judicial departments. The Home authorities were watchfully attentive to the language of all passages in current correspondence, which might, by any force of construction, be held to convey the concurrence of opinions between

¹ *A further Inquiry into the Expediency of Applying the Principles of Colonial Policy to the Government of India and of Effecting an Essential Change in its Landed Tenures and in the Character of its inhabitants*, Anonymous, (London, 1828), p. 99.

² Revenue Letter from Bengal dated 15 Sept., 1808, para. 42 in *East India Selections*, Vol. I, p. 69.

³ Revenue Letter from Bengal dated 31 Aug., 1810, para. 28, in *Ibid.*, pp. 71-72.

⁴ Stokes, *op. cit.*, p. 62.

the governments in India and the authorities at Home on the great questions at issue.¹

The most important amongst these documents was the report dated 13 April, 1808, of the Board of Commissioners which had been appointed by the Bengal Government in 1807 to superintend the conclusion of a permanent settlement in the Ceded and Conquered Provinces. In this report, the Commissioners stressed upon the deficiency of capital, the vast extent of uncultivated wasteland, and the great sacrifice of revenue which was inevitable if a permanent settlement was concluded in these provinces. Equal emphasis was placed upon the uncertainty about the rights of property in land, the unequal and inequitable burden of land revenue in different regions and on different classes of people and the evil consequences of the British regulations for the land tenures of the country. Taking advantage of these findings, the Home authorities argued with the Bengal authorities on the need for evolving a mode of revenue settlement which would take account of these factors. Thus, the local circumstances and the difficulties likely to be created by the introduction of the Bengal system of regulations into the Ceded and Conquered Provinces provided a basis for the Home authorities to retreat from the principles of permanent settlement and to adopt a 'new point of view'.²

The most important reason, however, for the change in the climate of opinion was consideration of fiscal and commercial interests. The East India Company was interested in more and more revenue to finance the expenditure of its expanding empire. The trade of the Company had been dwindling since the establishment of the permanent settlement, while its financial requirements had increased immensely.³ The conclusion of the Permanent Settlement had set a perpetual limit to their revenues from the land, and the government was for ever denied the right to deriving any benefit from the expansion of cultivation on wasteland or from agricultural improvements on already cultivated land. It became therefore necessary for the Home authorities to reconsider the 'expediency' of extending the permanent settlement to the new territories, specially when there was considerable scope for expansion and improvement of cultivation there in view of the deficiency of capital and a sparse population in relation to the vast stretches of uncultivated wasteland.

¹ John Sullivan's Observations, in *Report of the Select Committee, 1832*, Vol. III, Appendix p. 51.

² *Selections from East India Papers*, Vol. I, pp. 6-44.

³ Amles Tripathi, *op. cit.*, p. 49.

The exigencies of British economic development also influenced the shifts of policy in a more indirect and complex manner. During the eighteenth century, the principal economic advantage which Britain enjoyed in relation to India was assessed in 'mercantilist' terms.¹ Its magnitude was judged by the favourable balance of trade and the volume of tribute that was drawn from the country, and remitted home. In those days, political sovereignty was regarded merely as an instrument for extracting a surplus, with which the Company could finance the purchase of Indian goods for shipment to England (described in those days as its annual investment) and also to transfer the Company's profits to shareholders at home. But, in the wake of the Industrial Revolution, the economic relationship between India and England was basically altered. Instead of being regarded as an active instrument providing a flow of tribute, and ensuring a favourable balance of trade, the British power in India came to be regarded after 1800 as no more than an accessory which ensured the necessary conditions of law and order by which the potentially vast Indian market could be conquered for British industry.² India was now to be developed as a market for British manufactured goods and as a source of raw materials for British industry. The merchants and manufacturers of London, Manchester, Bristol, Liverpool and Glasgow, who subscribed to Free Trade, clamoured that, if this new purpose was to be achieved, the Company's monopoly of trade with India had to go.³ This fact was quickly seized upon by Free Traders who argued that the Company's rule was ruinous to India. They alleged that under the Company's administration, India's ancient institutions had been destroyed, her system of land tenures and landed property subverted, and the productive powers of the country seriously undermined. The tribute extracted by the Company had drained the country of its wealth, thus impairing its power to purchase British goods. According to them, India could not develop as a market for British goods so long as the Company's monopolistic

¹ Stokes, *op. cit.*, p. 37; also see *Considerations on the Danger and Impolicy of Laying open the Trade with India and China etc.*, Anonymous, (London, 1813), pp. 49-52.

² Stokes, *op. cit.*, p. xiii.

³ Stokes, *op. cit.*, p. 37-38; 'By 1813, the Company had no case for maintaining its monopoly of trade between India and Europe. The sale of Indian piece goods in Europe, the principal commodity for providing Company's actual "investment", had fallen away almost completely and the British territories no longer afforded even a surplus of revenue after the Company's administrative and debt charges had been met.'

privileges were maintained and her ports were not thrown open to private British merchants.

Before 1813, the year in which the Company's Charter was to be renewed for another period of twenty years, the opposition of the free traders had gathered momentum. In response to their criticism and charges, a Select Committee of the House of Commons had been appointed in 1810, 'to enquire into the present state of affairs of the East India Company'. This Committee, exposed in its reports the failures and weaknesses of the Company's administration, particularly in respect of land tenures and land revenue. It came to the conclusion that the mode of permanent settlement had failed in numerous instances and its basic principles should be reconsidered before it was extended to the new territories. The Committee also praised the ryotwari mode of revenue settlement and characterised it as 'highly expedient'.¹ Publication of this report created a sensation and had considerable impact on the public mind in England.²

Consequently, in 1813, the Free Traders succeeded in the attempt to strip the Company of its commercial monopoly. Its immediate effects were the rapid expansion of British exports to India especially of textiles, and the destruction of the Indian export trade in cotton. In fact, the expansion of British trade with India was so rapid that there was a threat of the potential market for British goods remaining limited in extent unless new products were found which could be imported in exchange.³ Measures had therefore to be taken for raising the purchasing power of the Indian population. And British merchants both in England and Calcutta urged the necessity for these measures.

At this juncture in the Indo-British economic relations, the utilitarian movement began to exercise a decisive influence on Indian policies. The source of this influence may be traced to James Mill who was appointed in 1819 as assistant examiner in the Revenue Department at East India House where he worked until his death in 1836. Mill, in his *History of British India*, had already condemned the system of the Company's administration, particularly the system

¹ *Fifth Report*, Vol. I, p. 320; also see Preface to the Madras Edition, Appendix, *Ibid.*, p. (b), which reads as follows: The Report 'expressed the failure of Lord Cornwallis's institutions for the first time. It took the public who reposed entire confidence in the perfection of the system completely by surprise, but it produced a salutary effect. It disposed of the dream of optimism in which the public authorities had indulged, and directed their attention to . . . reforms.'

² *Report of the Select Committee, 1832*, Vol. III—Revenue, Appendix p. 51.

³ Stokes, *op. cit.*, p. 41.

of Bengal Permanent Settlement.¹ But now he was immediately responsible for drafting the Revenue despatches to India. His office, therefore, 'enabled him to a great extent to throw into his drafts of despatches . . . his real opinions on Indian subjects'.²

The most distinct influence which the utilitarians exercised on the Indian land and revenue policy was through the application of the new science of political economy to the practical tasks of land and revenue administration. James Mill was himself not only an expert on political economy but an economist in his own right. But his continuous association with David Ricardo and T. R. Malthus, together with many other members of the Ricardian school, only sharpened the vigour with which he sought to apply the principles of Political Economy to Indian economic policies.

The most important doctrine of classical political economy that was applicable to the agrarian problem was the theory of rent, enunciated first by Malthus in 1815, in the course of his lectures at East India Haileybury College, Eastford, and later developed by David Ricardo in his *Principles of Political Economy* published in 1819. This theory was used by James Mill most effectively for giving an entirely new direction to the whole course of land revenue policy pursued by the Home authorities in India.

Only a few writers³ on the land and revenue system of the Ceded and Conquered Provinces have noticed this change in the climate of opinion due to basic economic and ideological changes in Britain. No one has however analysed the principal reasons underlying this change and even those who have attempted to do so have scarcely gone below the surface. Only Professor Stokes, in his *The English Utilitarians and India*, already cited above, has analysed one of the principal forces, viz., the tide of reform generated by English Liberalism, specially the influence of the utilitarians. But even he has not examined fully the specific circumstances of the Ceded and Conquered Provinces and the consequences of the Bengal Settlement, which also contributed to the emergence of an entirely new system of revenue settlement. It is difficult to disentangle these diverse influences which moulded the thinking of the British authorities at Home. We have made an attempt to analyse some of them in the following pages.

¹ James Mill, *History of British India*, Vol. V.

² J. S. Mill cited in Stokes, *op. cit.*, p. 49; also see William Foster, *East India House*, (London), pp. 197 and 208-09.

³ B. R. Misra, *op. cit.*, p. 39, and Baden-Powell, *Land System of British India*, Vol. II, p. 17.

(ii) *Inconveniences and Mistakes of the Bengal System and Retreat from Permanent Settlement*

As already mentioned, the opinion of the Home authorities on the question of extending the system of Bengal Permanent Settlement to the newly annexed territories began to change with the discovery of the 'errors', 'mistakes' and 'injustices' of that system and the experience of its 'practical inconveniences'. The British Government, within a few years of the operation of the permanent settlement, realised that it had made a large sacrifice of State revenue by settling the revenue with the zamindars of Bengal in perpetuity.¹ This realisation was rooted in several facts of the situation. Firstly, in cases where the estates fell in arrears of revenue, and could not be sold at public auctions, and revenue collection on them had to be made *khas*, i.e., the government officers had to collect the revenue directly from the cultivators, it was discovered that the actual extent of land in those estates was much more than what had been settled for. Secondly, when certain estates, of which the proprietors were minors or otherwise disabled and prevented from taking up their management, came under the court of wards, the government officers found that the actual extent of these estates was more than what was known to the government. Thirdly, whenever estates had to be partitioned between proprietors and their boundaries had to be determined, it was discovered that there were many villages and lands which had not been included in the estates and accounted for in the determination of revenue assessment which was made permanent.² Fourthly, the lands sold at public auctions fetched high value for the government. This was paradoxical in view of the fact that the revenue demand consisted of as much as ten-elevenths of the total rental of an estate. The high values realised from these sales were interpreted by the Court as indicating that the actual extent and the revenue resources of the various estates permanently settled had been far more than were known to the British Government. Since land had not been surveyed to determine the actual area of the estates, fix their boundaries and assess their full value before the conclusion of a permanent settlement, the zamindars were left with

¹ A. D. Campbell, "Paper on the Land Revenue of India" in the *Report of the Select Committee, 1832*, Appendix, p. 21.

² Lord Hastings' Minute, 21 Sept., 1815, para. 58, in *Revenue Selections (1818-1820)*, p. 324.

a far larger share of the State revenue than was actually intended.¹ Further, it was found that the extent of wasteland included in the various estates had been very imperfectly ascertained. The revenue officers found in the course of their normal administrative experience that the extent of wasteland was far greater than was imagined at the time of the permanent settlement, and that the benefits of extension of cultivation to the wasteland had been left to the zamindars in perpetuity.

When these facts came to light, it was felt that in Bengal 'we (the British authorities) supposed ourselves to be fully acquainted with their resources perhaps too hastily'.² The Home authorities, therefore, naturally became cautious about the extension of the permanent settlement system to any territory without first completing 'a minute and detailed survey of the extent of cultivation and productive powers'³ of the land. They were certain that 'before fixing the maximum of its demand, the government should fully explore and ascertain the value of those resources from which its contributions are to be derived. By rating them according to an arbitrary standard or by vague conjecture as had been practically the case in Bengal, they could hardly avoid either doing injustice to individuals or making improvident sacrifices on the part of the public'.⁴

The practical question was not the sacrifice of State revenue in the past but the question whether it was proper for the State to deprive itself of the potential revenue on wasteland when brought under cultivation. The Home authorities, even at the time of the permanent settlement, had expressed a desire to exclude the wasteland from the ambit of the Permanent Settlement and to make some provision for the government's participation in the benefits of extension of cultivation into wasteland.⁵ But with a view to inducing the new proprietors to improve their estates, Lord Cornwallis did not reserve the right of the government to share in such benefits in the future.

Land revenue thus became an inelastic source of revenue. Such a

¹ See Revenue Letter to Bengal, 28 Oct., 1814, para. 39, in *East India Selections*, Vol. I, p. 166.

² Revenue Letter to Bengal, 1 Feb., 1811, para. 22, in *East India Selections*, Vol. I, p. 3.

³ *Ibid.*, para 20, p. 3.

⁴ *Ibid.*, para. 24, p. 3.

⁵ Letter of Court of Directors, 29 Aug., 1792, cited in *Fifth Report*, Vol. I, p. 35.

situation was inconvenient for several reasons. The most important reason was the financial embarrassment of the East India Company during the years immediately following the declaration of permanent settlement in Bengal. The settlement was declared permanent on the hypothesis of continuance of peace. But within a few years, the Company's government in India was involved in wars and military engagements which meant a rise in both its civil and military expenditure.¹ Land revenue was an inelastic source of revenue. The revenue from duties on salt and opium showed a decline. Thus, during the last few years of the eighteenth century, it became difficult for the Company even to keep up its regular 'annual investments' at the former level. The surplus revenue in Bengal in 1793-94 was C. R. (current rupees) 2,53,99,682 which dwindled to C. R. 1,75,10,814 by 1797-98, while the charges on these revenues rose from C. R. 3,33,19,779 to C. R. 4,03,16,599.² Besides paying an interest of C. R. 35 to 40 lakhs a year on the Company's debt, the Bengal Government had also to contribute to the annual investments of the Company to the extent of C. R. 1,33,48,793 on an average during 1793 to 1797. In these circumstances, it appeared to be highly inexpedient for the government to have 'affixed bounds to its resources while the extent of its possible exigencies remained unaltered'.³ It had set limits to the demand of the State while it was ignorant of the future exigencies.⁴

At the time of declaring the revenue settlements permanent in Bengal, 'it was imagined . . . that in proportion as the effects naturally to be expected from an enlarged and liberal policy (of Permanent Settlement) were developed, in proportion as the land was improved, activity given to commerce and as the people were enriched, government would be able to indemnify itself for the sacrifices it had made by means of taxation on the necessities and luxuries of life'.⁵ It was even believed that the increase in the yield of these taxes will normally compensate the government for any contingent loss it might sustain from the depreciation in the value of money in subsequent years and that its revenues might be made to advance in equal proportions with the prosperity of the country and that both

¹ Amles Tripathi, *op. cit.*, p. 49.

² *Ibid.*, p. 49.

³ Revenue Letter to Bengal, 15 Jan., 1812, para. 78 in *East India Selections*, Vol. I, p. 63.

⁴ Revenue Letter to Bengal, 1 Feb., 1811, para. 36, in *Ibid.*, p. 4.

⁵ *Ibid.*, para. 31, p. 4.

would go on flourishing in rapid progression. But it was found that 'this calculation was rather too sanguine, and it was formed without sufficient attention to those local peculiarities by which the hopes founded upon it might be disappointed.'¹ In fact, the hopes that were entertained were not realised.² The Home authorities, therefore, came to the conclusion that, for making up the losses sustained through the depreciation in the value of money, or for increasing the means of its own support, the government must, for a considerable period of time, look to the territory of India³ and depend almost exclusively on the land revenue.

The logic on which this conclusion was based may be explained. The only fair objects of taxation, apart from land, could be consumption goods, since taxes on them, although more difficult to collect than land-tax, 'do not so directly invade the sources of reproduction'.⁴ But, it was felt that in India, in view of the peculiar habits, customs and prejudices of the people, such taxes could not be an expanding source of revenue. 'It is only amongst a luxurious people that their produce could be rendered very considerable, without becoming oppressive to the individuals and highly pernicious to the interests of the community'.⁵ But it was now observed that the natives in India were poor and simple. Their consumption of these commodities could not increase sufficiently to draw as much additional revenue from them as to compensate for the sacrifice made by fixing the land revenue in perpetuity. Therefore, the Home authorities wished it to be recognised that 'our *territorial* revenues constitute the principal stay of our government' and that 'the revenue arising from land, being that mode of contribution to which the natives have been most accustomed, has fewer prejudices to encounter than any other which could be resorted'.⁶

In face of the Company's financial difficulties, the inelasticity of land revenue as a source of income was all the more regrettable in view of the fact that the zamindars' rentals had increased beyond all calculations. During the three decades after 1793 their rental incomes had become almost as much as the State revenue, while at the time of the Permanent Settlement, they were estimated at

¹ *Ibid.*, para. 31, p. 4.

² Revenue Letter to Bengal, 15 Jan., 1812, para. 78, in *Ibid.*, p. 63.

³ *Ibid.*, para. 78, p. 63.

⁴ Revenue Letter to Bengal, 1 Feb., 1811, para. 34, in *Ibid.*, p. 4.

⁵ *Ibid.*, para. 34, p. 4.

⁶ *Ibid.*, para. 36, p. 4.

not more than 10 per cent of the total rental.¹ The British Government, therefore, realised all the more acutely the enormity of the sacrifice they had made in favour of zamindars by fixing the land revenue in perpetuity.

Apart from their immediate financial embarrassment, the Home authorities held that for the sovereign of a poor, indolent and ignorant people, it was necessary that 'his government, for the purpose of producing a happy change in the character and fortunes of the nation, shall occasionally aid individuals with advances of capital, and take upon itself the construction and maintenance of works of great public utility'.² The sovereigns in India according to them 'have long been in practice, not only of advancing money to the cultivators and weavers, with the view of promoting the agriculture and manufacture of the country, but also of fencing the country against sudden and destructive inundations, and of supplying the land in the dry season with the means of artificial irrigation. The task of banking the rivers, of constructing and upholding tanks and reservoirs, had thus, by established usage, become the duty of the Government'. They thought that if a duty of this nature was imposed upon the Government of India, by ancient usage as well as by the total inability of the people to perform it with their own scanty means, the sovereign had a right to recompense himself for the expense incurred in these undertakings, and that the certainty of obtaining such 'indemnity' would alone guarantee that the sovereign's duty will be performed as it ought to be. Therefore, the settlement of land revenue under which this would always be within the reach of the government was preferable to the one under which all prospects of compensation were excluded.³

Another practical inconvenience of a permanent settlement was that since some estates were capable of greater improvement than others, the incidence of assessment became unequal in course of time. Since the government reserved no right to raise the assessment, it was not within its power to lessen these inequalities. Therefore, some provision to remedy these inequalities had to be made in the new settlement.

The Home authorities, therefore, posed the question whether provision should not be made in future settlements for a certain

¹ A. D. Campbell, *op. cit.*, p. 21.

² Revenue Letter, 15 Jan., 1812, para. 94, in *East India Selections*, Vol. I, p. 65.

³ *Ibid.*, para. 98, p. 66.

measure of profit-sharing between the government and the landholders, in respect of profits derived from the improvement of land.¹ They realised that an arrangement, under which the government would reserve to itself a claim upon a share of the value of the increased produce of the land, or rather the right of raising the land tax in proportion to the increased capacity of the land to pay revenue, did imply a departure from the principle of the permanent settlement in Bengal which had secured to the proprietors of estates the *whole* advantage of a rise in their rental.

As regards the actual plan to ensure the sharing by the government in the future increase in the produce of the land, the Home authorities held the view that 'a tax in proportion to the amount of the *annual produce* of the soil, or varying even with *every* variation of the rent, besides being difficult of collection, will prove in its operation fatal to improvement'.² Therefore, they suggested a *via media* . . . 'between a land tax varying from year to year according to the (amount of) produce or according to the rent (paid), and a permanent land tax never to be varied at all, in which openings may be left at stated periods, too distant to retard improvement, both for regulating inequalities to which every land tax, assessed according to a general survey and valuation, is liable in course of time (different parts of the country being susceptible of different degrees of improvement) and for recruiting the funds of the government when they are found inadequate to the demand of public exigencies'.³

They wanted to fix a certain interval between each term of assessment, at the expiry of which 'a general revisal of the relative proportions of the existing tax to the increased, stationary, or decreased state of the improvement should take place under the immediate auspices of the Government'. Although they realised the two-fold difficulty of settling the appropriate period for which an assessment should be valid and of ascertaining the degree of improvement during the intervening period, they believed that these difficulties would not be insurmountable.⁴

With a view to justifying this plan of revenue settlement and proving that it was unexceptionable in principle, the Court of Directors relied on Adam Smith's *Wealth of Nations*. In their

¹ Revenue Letter, 15 Jan., 1812, para. 73, in *Ibid.*, p. 63.

² Revenue Letter, 15 Jan., 1812, para. 81, in *Ibid.*, p. 64.

³ *Ibid.*, para. 82, p. 64.

⁴ *Ibid.*, para. 88, p. 64.

Revenue Letter to Bengal Government dated 15th January 1812, they wrote:

We are fully sensible of the caution with which the best digested speculations ought to be received into any scheme of practical nature, but it is no demerit that the suffrage of one of the most enlightened writers on political economy may be quoted in its favour. 'In all variations of the state of society', says Dr. Adam Smith, 'in the improvement and in the declension of agriculture, in all variations of the value of Silver, and in all those in the standard of the coin, a tax of this kind, would, of its own accord and without any attention of government readily suit itself to the actual situation of things and would be equally just and equitable in all those different changes'.¹

... when the term of the settlement is once fixed (suppose for ten, fifteen, or twenty years) it should be distinctly understood, that it will be renewed at its expiration for the same period subject to an augmentation of assessment. This understanding from the beginning, between government and the proprietors, will, in the words of the author above quoted, 'give to the rule of settlement the character of a perpetual and unalterable regulation, or what may be called the fundamental law of the Commonwealth, rather than that of a tax to be levied according to a certain valuation'.

Dr. Smith further observes, 'To draw the attention of the sovereign towards the improvement of the land from the regard to the increase of his own revenue, is one of the principal advantages proposed by this species of tax'. This argument, which, when generally put, is unquestionably just, derives additional weight from a particular application of it to the state of India, and to the peculiar nature of some of those duties on the part of government which are consecrated by ancient usage, and in the performance of which established custom, as well as a sound view of its own interests, forbids it to relax.²

Apart from the inconveniences due to perpetual limitation on revenue, a more important kind of inconvenience which was dis-

¹ *Wealth of Nations*, Book V, Chapter II, cited in *Ibid.*, p. 65.

² *Ibid.*

covered was that 'consequences, the most injurious to the rights and interests of individuals, have arisen from describing those with whom the permanent settlement was concluded, as the actual proprietors of the land'.¹ This 'mistake' (which was now admitted) 'and the habit which has grown out of it of considering the payments of the ryots as rent instead of revenue', were regarded as having 'produced all the evils'; and as having 'introduced much confusion into the whole subject of landed tenures'.² It was now recognised that these 'mistakes have given a specious colour to the pretensions of the zamindars in acting towards persons of the other classes, as if they, the zamindars, really were, in the ordinary sense of the word, the proprietors of the land, and as if the ryots had no permanent right but what they derived from them'.³

This 'misconception' in regard to rights of property was now acknowledged to have vitiated all settlements, whether of lands in *jagirdari*, *muqarrari* and *istamrari* tenures, or of lands belonging to *rajas* and *talugdars*.⁴ It was also recognised that this 'mistake' had been committed even in those parts of the country where revenue settlements had been made in the name of one person for one village only. Although, admittedly, he was only one of the many to whom the lands of the village belonged, he was recognised as the sole proprietor of the total lands of the village according to the British settlement regulations.

All the evils necessarily flowing from these 'mistakes' and 'misconceptions' were also recognised. It was realised that 'by merging all village rights, whether of property or of occupancy, in the all-devouring recognition of the zamindar's permanent property in the soil',⁵ the British Government had left in jeopardy the rights of all the other classes and the rights of the former cultivating proprietors had been allowed under the regulations to pass away *sub-silentio*.⁶ As a result the class of village proprietors had already been extinct in Bengal by 1815 and was in a 'train of annihilation' elsewhere.

¹ Revenue letter to Bengal, 15 Jan., 1819, para. 54 in *East India Selections*, Vol. I, p. 360; also see Lord Hastings' Minute, 21 Sept., 1815, in *Revenue Selections (1818-1820)*, p. 342.

² *Revenue Selections (1818-1820)*, p. 361.

³ *Ibid.*, p. 361.

⁴ *Ibid.*, p. 361-62.

⁵ Minute by Edward Colebrooke, 12 July, 1820, in *Revenue Selections (1818-1820)*, pp. 208-09.

⁶ Lord Hastings' Minute, *op. cit.*, p. 346.

Regarding the relations of the ryots with the zamindars the Bengal Government admitted that 'the institutions of the country are very imperfectly calculated to afford to them, in *practice*, that protection to which, on every ground, they are so fully entitled'.¹ The assumption at the time of the permanent settlement was that 'every beegha of land possessed by the ryots must have been cultivated under an express or implied agreement',² and the zamindars were merely directed by the *patta* (lease deed) regulation (Regulation VIII of 1793) to consolidate all their demands upon the ryots and to tender them *pattas* (lease deeds), specifically stating the amount to be paid for the land they occupied. But the government had entirely neglected to define or limit the demand of the zamindar on the ryots. On the contrary, it was imagined that the reciprocal interests of the zamindars and the cultivators would always constrain them to amicable agreements.³ There was no attempt to ascertain the rights of ryots and the established rates of rent paid by them. Even the office of the *qanungo* by means of which such information could be collected was abolished while the *patwaris* became virtually the servants of the zamindars. The government only ordained that the disputes between the zamindars and the ryots were to be settled in the Courts of Law without indicating how the Courts were to determine their mutual relations.

The inevitable result was that the ryots had no protection against the exactions of the zamindars, 'to whose demands there were no prescribed limits'.⁴ The zamindar offered the *patta* on his own terms, and if the ryot refused it, he was evicted. If he sought relief by a suit in the Court of Law he lost it because he had no means of proving that the demand of the zamindar was extortionate.⁵ Thus, the failure of the Bengal Government to ascertain and record all rights, to register all holdings and all transfers and to prepare statements of all receipts by the zamindars and payments by the cultivators led to extensive and grievous oppression of the ryots.⁶ The rights of heritable occupancy of the resident ryots, subject

¹ Revenue Letter from Bengal, 7 Oct., 1815, para. 9, in *Report of the Select Committee, 1832*, Appendix 91; also see Letter of Court of Directors, 29 Aug., 1792 in *Fifth Report*, Vol. I, p. 85.

² Cornwallis' Minute, 3 Feb., 1790, *Fifth Report*, Vol. II, p. 532.

³ See A. D. Campbell, *op. cit.*, p. 16.

⁴ Lord Hastings', Minute para. 143, *Revenue Selections (1818-1820)*, p. 342.

⁵ *Ibid.*, para. 143, p. 342.

⁶ George Campbell, *op. cit.*, p. 148.

only to the payment of government revenue at specified rates, and the rights of the non-resident ryots to have their revenue rates determined by government were thus sacrificed.

Although the government had reserved the power (by Sec. 8, Regulation I, of 1793) 'to enact such regulations as it may think necessary for the protection and welfare of the . . . ryots and other cultivators of the soil', in fact this power was never exercised. On the contrary, the object of government in the subsequent laws passed after 1793 upto 1822 was 'to abrogate most of the laws in favour of the ryot, and to leave him . . . under no other protection for his tenure than the specific terms of the lease which he may hold', and the proprietors were declared competent to grant leases 'at any rent which they may deem conducive to their interests'.¹ It was also found that there was no reciprocity between the zamindars and the ryots. The zamindar wanted the ryots upon his own terms, and if he could not get these terms from the resident ryots who claimed a right to terms other than what he wanted, he could always replace them by other cultivators since 'such (was) the redundancy of the cultivating class, that there never (could) be a difficulty of procuring ryots, ready to engage on terms only just sufficient to secure them bare maintenance'.²

The insecurity of the rights of cultivators arose not merely from the erroneous principle of 'declaring the zamindars as sole proprietors of land and by leaving their demands upon the ryots unexplained and undefined', but also from the principle of sale of lands for arrears of public revenue. In 1793, it had been declared that on the public sale of an estate for arrears, all existing engagements between the zamindar and the cultivators should stand cancelled from the day of the sale, the purchaser being at liberty to enter into new engagements according to local rates, which were left undefined. By Regulation VII of 1793, the purchasers at public auctions were also given the right to eject any of the under-renters (cultivators) whose leases were annulled, without any application to the Court. The result was that the purchasers of landed property generally preferred buying at a public auction than at a private sale which conferred no such advantage. They generally took advantage of this law to oust from their fields the resident ryots possessing a right to terms independently of them, and to replace

¹ A. D. Campbell, *op. cit.*, p. 15.

² Lord Hastings' Minute, *op. cit.*, para. 147, p. 343.

them by others dependent on their own will, who consented to higher terms.¹

Moreover, the public sale of any village for arrears of revenue conveyed to its purchaser the right of property in the lands, not merely of the defaulting village zamindars, but also of the entire land of the village including also the land of such cultivating proprietors as might have paid their assessment in full to the defaulting village zamindars. The right to eject such cultivating proprietors which was conferred on the purchasers only hastened the destruction of their rights.²

Another injustice flowing from the indefiniteness of rights related to the great inequalities of the incidence of land revenue on different estates and individuals. Some estates with a very large extent of wasteland were in the course of time improved so much that the revenue assessment became very light, as compared with the incidence of land revenue on estates in which the extent of wasteland was much less or the alternative resources were not so developed.

In view of all these errors, and injustices of the Bengal Permanent Settlement, it was realised that the government had failed 'in the grand object of converting the zamindars of India into a landed aristocracy', and in 'rendering their demands upon the ryots permanent in spite of having fixed its own on the zamindars in perpetuity'. It had also created a difficult situation for itself because no attempt was made to ascertain, define, record and protect the rights of different classes in the agricultural community, as it found them on the eve of the British rule.

As regards economic consequences,³ the permanent settlement 'deprived every other class but the large proprietors who engaged with government of any share in the profits of land'.⁴ It also succeeded in encouraging a large number of monied men to invest their liquid capital in landholding.⁵ It was also accompanied by the extension of cultivation on wasteland.⁶ But extension of cultivation was by no means the effect of it.⁷ The permanent settlement failed to demonstrate that zamindars were, by and large, interested either in promoting the prosperity of their subordinate tenantry or in

¹ A. D. Campbell, *op. cit.*, p. 18.

² *Ibid.*, p. 18.

³ See Hastings' Minute, para. 158-68, pp. 345-47

⁴ Lord Hastings, para. 148, p. 343.

⁵ N. K. Sinha, *op. cit.*, p. 4-5; also *Fifth Report*, Vol. I, p. 101.

⁶ A. D. Campbell, *op. cit.*, p. 33.

⁷ *Ibid.*, p. 33.

improving cultivation on their estates by investing their capital. They proved to be extravagant and careless. One of the Bengal officers reported: 'I have never seen or heard of a zamindar in Bengal, who took any measures for the improvement of his estate on a large and liberal scale. Landholders do not carry their views beyond granting wastelands on the terms which are customary in the *pargana*; they hardly ever encourage cultivation by digging a tank or making advances to the ryot.'¹ On the contrary, it was reported by the Board of Revenue that only 'the ryots generally clear and cultivate the lands at their own expense'.² The period of exemption from rent may, in some instances, exceed that specified in the zamindar's grant, but the expense generally speaking, falls on the ryot.³ And this was their record in spite of the fact that the rental of the zamindars had been almost doubled within the decade after the declaration of the Bengal Permanent Settlement.⁴

The fact remained that the entire economic surplus, yielded by land, and appropriated by the zamindars, was not utilised for investment in the improvement of land. The government by having sacrificed increment of revenue in future had not succeeded in making the landowners the instrument of agricultural development. It was therefore felt that if this sacrifice were made in favour of the cultivating ryots it would probably have been far more productive. It was argued that when a remission or reduction in land revenue was granted to the occupant proprietors holding land directly from the government, it immediately augmented 'agricultural stock', and was applied to the improvement of the land, and the support of productive industry, eventually returning, like money lent at interest, ample profits to the State exchequer. The British rulers, therefore, veered round to the view that protecting

¹ Revenue Letter to Bengal dated 9 May 1821, *Report of the Select Committee*, 1832, Appendix, p. 103.

² A. D. Campbell, *op. cit.*, p. 33.

³ *Ibid.* Also see Letter of the Board of Commissioners in Bihar and Banaras, 8 March, 1822, to the Bengal Government in *East India Selections*, Vol. III, p. 304. The Board wrote, 'we cannot . . . acquiesce in the assertion of capital, or the gains of the sudder Malguzar being laid out in agricultural improvements. It is the labour and industry of the Ryots, frequently in opposition to the Sudder Malguzar, which has brought the country into its present state of cultivation. Wells are dug in most soils by the labour, and often times by the money of the cultivator. In tracts of the country, whose wells require cylinders of masonry or wood, the zemindars do not increase the fertility by an outlay . . . We doubt whether a single well entailing a considerable outlay will be found to have been dug and constructed by the zemindars under the British Government . . .'

⁴ A. D. Campbell, *op. cit.*, p. 15.

the occupant proprietors from the zamindars' oppression and exactions, and maintaining them in their tenures was a paramount duty of the British Government. It was only by such a course that the accumulation of capital amongst the industrious middle class of India, viz., the yeomanry, could be fostered.¹

It must be noted, however, that such a view was formulated only after the system of *ryotwar* settlement had been successfully established in Madras. In the Ceded and Conquered Provinces village communities had been found to exist as 'living' and 'acting' institutions unlike in Bengal. This fact combined with the success of the Madras experiment brought about a most pronounced change in the opinions and policies of the Home authorities on the question of settlements in the Ceded and Conquered Provinces. Later on between 1819 and 1833 the influence of utilitarians, particularly of James Mill, and that of classical political economy, especially of the law of rent, operated in the same direction and tended to give the revenue policy an entirely new orientation. In the remaining part of this chapter we shall try to trace these influences in greater details.

(iii) *Ryotwar Settlements in Madras Presidency and the
New Approach to Revenue Settlements*

While, on the one hand, the mistakes and injustices of the Bengal Permanent Settlement gradually became known to the Home authorities, they also noticed an alternative system of revenue settlements, developed by the officers of the Madras Presidency, and known as the *ryotwar* system. This system avoided the errors and injustices of the Bengal Settlement and, therefore, attracted the particular attention of the Home authorities. The Select Committee of the House of Commons appointed in 1810 to examine the affairs of the East India Company gave it their favourable consideration. The principles underlying it were also more in harmony with the new ideas and theories, the influence of which was felt on the British land revenue policies in India during the years 1813, (when the Company's monopoly of East India trade was abolished) to 1833 (when the commercial activities of the Company altogether ceased).² These principles naturally commanded wide acceptance particularly

¹ *Ibid.*, p. 33

² See further Section IV of this Chapter.

against the background of the failure of the Bengal Permanent Settlement. But opinion split on this important issue. The Home authorities in England and the British officers in India at various levels were divided into two distinct groups according as they favoured either of the two rival systems, viz., the Bengal System and the *Ryotwar* System. The groups clashed and many official battles were waged.¹ But the decisive change in policy, even in the Madras Presidency, was mainly the result of the determination of the Home authorities, especially the Board of Control,² who made no bones about a determined retreat from the principles of Permanent Settlement as soon as they had realised the advantages of the *Ryotwar* system.³

The early settlements in the Madras Presidency were based on the principles of the Bengal Permanent Settlement. In some parts of that Presidency⁴ the Permanent Settlement on Bengal lines had even been established during the period 1802 to 1804. But, about this time, certain new territories⁵ came under the British rule in the Presidency of Madras in which, as in the Ceded and Conquered Provinces, land was held by an 'industrious and numerous yeomanry', or bodies of small proprietary cultivators organised in joint village communities. There was thus an opportunity to look at problems of land tenures and settlement from a new angle.

Some of these new territories (Salem and Baramahal) were placed under the charge of Captain Alexander Reade, with Thomas Munro as his Assistant. In these areas, there was no large class of zamindars or middlemen, and the only persons available for collection of revenue were a few *poligars* who resisted the establishment of British rule and had to be consequently set aside.⁶ Lord Cornwallis

¹ George Campbell, *op. cit.*, pp. 158-59.

² See Observations by Mr. John Sullivan in *Report of the Select Committee*, 1832, pp. 49-67.

³ Revenue Letter to Fort St. George, 16 Dec., 1812, cited in A. D. Campbell, *op. cit.*, pp. 37-38.

⁴ Under the Madras Presidency, the permanent zamindari settlement included nearly the whole of the five Northern circars, rather more than one third of the Chingleput district, the Pollams (estates) scattered through several provinces to the northward, westward and southward of Madras, and small portions of Dindigul and southern division of Arcot. See A. D. Campbell, *op. cit.*, p. 11.

⁵ In 1792, the districts of Salem and Baramahal, with Dindigul and Malabar, were ceded by Tipu; in 1799, Coimbatore, Canara, and Soonda were transferred to the Company; in 1800, Bellari and Cuddappa districts were ceded by the Nizam; in 1801, Arcot and Carnatic were also ceded to the Company. See A. D. Campbell, *op. cit.*, p. 31.

⁶ Baden-Powell, *op. cit.*, Vol. III, pp. 34-38.

had instructed these military officers put in charge of these areas to make the revenue assessments on the basis of records of the preceding government, as corrected by a comparison with the accounts of actual cultivation. But he had not specified the class of persons with whom they were to make revenue contracts.¹ Since no intermediate agency for revenue collection was available, and such as was available had to be eliminated for political reasons, the British officers proceeded to collect the revenue demand directly from the cultivators. This came to be known by the name of the *ryotwar* system. The system of *ryotwar* settlement consisted in entering into contracts for payment of government revenue assessed in money terms for every field with each individual ryot, without joint responsibility and without the intervention of a zamindar, a village headman or any other intermediary. That is why the system is known as *ryotwar*, which literally means 'according to, or with ryots'.²

Under this system, revenue was not assessed, as in Bengal, 'in haste, on general surmises, on accounts never believed to be accurate, . . . on the offers of speculators, on the biddings of rivals, on the suggestions of enemies . . . (and) . . . on information of all kinds generally worthless'.³ On the contrary, 'a regular survey of the lands was undertaken, by which it was ascertained what was the real extent of land cultivated, the different descriptions of it, both with reference to the tenures by which it was held and the kinds of produce which it yielded; what quantity of a given portion of seed would yield of a particular produce; what was the extent of land, either uncultivated or waste, and also what was the share of the producer to which, according to the unadulterated usage of the country, (which means before the imposition of extra oppressive cesses and *abwabs* by the native governments) the government was entitled'.⁴ These surveys proved useful for detecting any concealment of land which was actually cultivated, and was liable to be assessed for land revenue.⁵ They also helped in making it possible for the government to base its revenue demand on individual ryots on uniform principles. They provided the basis for introducing a fixed money-rent according to the extent and value of land, instead of resorting to annual commutation in money of the government share of the actual produce,

¹ See Letter from Lt. Col. Barry Close to Capt. Alexander Read, 31 March, 1792, in *Fifth Report*, Vol. III, pp. 201-2. ² Glossary of Charles Wilkins appended to the *Fifth Report*, Vol. III, p. 46. ³ Letter of Holt Mackenzie, *Report of the Select Committee*, 1832, Vol. III—Revenue, p. 298. ⁴ *Fifth Report*, Vol. I, pp. 227-28. ⁵ *Ibid.*

which became necessary where the revenue had to be collected in money by division of produce.¹ Thus, in the case of land which had been surveyed and its extent and value determined, taking into account the average produce of past years, the share of the produce to which government was entitled was converted into a fixed money-rent, on the basis of the prices of grain prevalent in the market for a certain number of years and contracts were made with the actual cultivators individually.²

Money rent for each of the fields occupied by a ryot was fixed on the basis of its estimated produce, as determined by the quality of the soil and the extent of the area. These money rents indicated the maximum revenue demand. A cultivator was given the liberty to take up any field for cultivation or give it up according to circumstances. This was done because of the numerous complaints made by the ryots against the injustice of binding them to the same lands and requiring payment of a fixed money-rent for each for a number of years, in spite of changes in their stock of capital and other circumstances.³

To arrive at a fixed money-rent for each field, it was evidently necessary to ascertain all the circumstances that affected its estimated yield. Information regarding the nature of the soil, the standing crops, the supply of manure and of water for irrigation and every other relevant detail available were taken into account. Estimates thus made were checked up with the estimates of produce given by the ryots, whom the collectors gathered at convenient places,⁴ and corrected their own estimates accordingly. Thus, a vast amount of data had to be collected before the amount of revenue assessment for a particular field could be fixed. Separate assessments for different fields were aggregated to arrive at the revenue of any given area, which again was corrected with reference to past collections from that area.⁵

Under the *ryotwar* system, with the fixation of the maximum revenue payable, the cultivator enjoyed exclusively, without any sharing by the government, the benefit which he derived from the employment of labour or investment of capital in improvements. The land revenue demand being simplified and defined, there was

¹ *Ibid.*

² *Ibid.*, p. 228

³ Baden-Powell, *op. cit.*, Vol. III, pp. 34-38.

⁴ *Fifth Report*, Vol. I, pp. 230-32; also A. D. Campbell, *op. cit.*, p. 34.

⁵ A. D. Campbell, *op. cit.*, p. 35

no problem of the oppression of the cultivators by the intermediaries and of the frauds and impositions of native revenue officers, which were inevitable if they were called upon to determine the revenue payable by each cultivator from year to year on the basis of actual produce.¹

The collectors or their assistants granted to each cultivator a *patta*, or lease for one year specifying the extent and quality of land in his occupation, and the sum he contracted to pay as government revenue. The amount of actual revenue to be collected, however, was liable to such variations as became necessary for correcting any errors which might have crept into the survey or any irregularities in the assessments based on it. The actual amount of revenue collected was also subject to adjustments required by the changes in the area of land actually cultivated by a ryot in a given year, or by agricultural improvements introduced by him. Revenue demand was scaled down if a ryot ceased to cultivate particular fields or faced bad seasons or unavoidable calamities owing to which he was incapable of fulfilling his obligations.²

The actual methods of survey and measurement of lands and estimating their produce were developed over a number of years, especially in the course of revenue settlements conducted by Thomas Munro during the period 1802 to 1807 in the Ceded Districts taken over from the Nizam.³

It may be pointed out that although these methods were successfully developed by Madras officers their acceptance was not universal in the Madras Presidency until after a long time. Captain Read and Thomas Munro were called on military duty in the Mysore War of 1799. After the War, the Madras Board of Revenue issued instructions for the introduction of a permanent zamindari settlement in these areas as well on exactly the same lines as in Bengal.⁴ An attempt was thus made to replace the government agency by an artificial class of new zamindars.⁵ New monied speculators, in imitation of the ancient zamindars in Bengal, were introduced by the government into the rural community to build up an aristocracy where none had previously existed.⁶ The new zamindars purchased at

¹ *Fifth Report*, Vol. I, p. 229

² *Ibid.*, pp. 229-30

³ A. D. Campbell, *op. cit.*, p. 34

⁴ See Instructions of the Board of Revenue, issued to Collectors dated 15 Oct., 1799, in *Fifth Report*, Vol. III, Appendix 18, pp. 169-200.

⁵ A. D. Campbell, *op. cit.*, p. 31

⁶ *Ibid.*, p. 18

auction the right to realise from the cultivators the assessments fixed for each field by Captain Read and Thomas Munro. Enjoyment of this right was subject to the condition that the zamindars paid a sum to the government which was fixed in perpetuity and was only 10 per cent less than the estimated payments due from the cultivators. Their own collections from the latter could vary annually with the extent of land actually cultivated.¹ But, since the estimated receipts from the cultivators were highly over-rated, the new zamindars were unable to realise and pay the revenue for which they had contracted. The inevitable result was that most of these estates were once again sold for arrears of revenue, and in the absence of purchasers, came into the possession of government, and the function of collection of revenue reverted to public officers.² The revenue on these lands had to be inevitably reduced since no purchasers came forward to undertake the responsibility of collecting the stipulated revenue. Thus, the attempt to create a landed aristocracy failed partly because the stipulated revenue rates were far too high and partly because no intermediate revenue-collecting agency had existed in these areas previously.

Unlike the Bengal settlement, the *ryotwar* system of revenue settlement recognised no class of intermediaries between the government and the actual cultivators. The latter were in Madras, as in other parts of India, the proprietors of the soil and had exercised all the rights of property in land subject only to the payment of government revenue. It did not superimpose the artificial rights of private property of the zamindars, as under the Bengal system, over the individual proprietary rights of village zamindars. Although it isolated the responsibility of the cultivating proprietors for the payment of their own respective share of revenue, and recognised as individual property what had previously been enjoyed as collective property, yet it safeguarded the individual rights of village proprietors in the village communities. Nor were the rights of hereditary occupation and payment of a fixed rent, vested in the *resident* and *khudkasht* ryots, violated. Thus, the *ryotwar* system provided a safeguard against the evils of insecurity of tenure and oppression and rack-renting associated with the recognition of a class of zamindars as sole proprietors of land.

A very important difference between the *ryotwar* and the Bengal

¹ *Ibid.*, p. 31

² *Ibid.*

system was that under the former, all the waste and unoccupied lands remained the property of the government and could be separately assessed whenever cultivation was extended and the cultivators chose to cultivate them at prescribed revenue rates. Under the Bengal system the uncultivated and waste lands in the zamindaris or villages had been granted to the newly created proprietors who were left free to arrange for their possible cultivation and to derive profits without sharing them with the government by paying a larger land revenue.¹ But under the *ryotwar* settlement, government could derive additional revenue from every new field cultivated.

Moreover, if the money-rent for every field was not fixed in perpetuity, and could be revised after a definite, though long, period, government could derive additional revenue as the result of the rise of prices and increasing cultivation of more valuable cash crops. Every improvement in agricultural technique and crop yields and all other circumstances which raised the productivity of the land would thus ensure a larger revenue for the government.

The *ryotwar* system of revenue settlements provided an opportunity for the revision of the theory of agricultural improvement implicit in the Bengal Permanent Settlement. The view that large landed proprietors, being vested with private property in their zamindaris and assessed with a perpetually fixed government revenue, would promote agricultural improvement was replaced by the theory that the actual cultivator of the soil, vested with the right of private property in the soil and assessed with a fixed money rent for a long period of time, was far more likely to undertake extension and improvement of agriculture than the zamindars. In fact, many of the Madras officers argued vehemently in support of this theory in their elaborate and able reports.² They held that the zamindar was interested in improving the land only if he had the power to raise the rents and to evict the tenants in order to settle tenants able to pay higher rents. But if these powers were restricted, he was not left with any incentive either to improve agriculture or to invest his capital in land. Further, even when they enjoyed these powers, 'the income which the zamindar derives in the shape of the difference between what he receives from the cultivators and what he pays to the government as his contract

¹ George Campbell, *op. cit.*, p. 169

² Particularly, see the Reports of W. Thackeray, 29 April, 1806 and 4 Aug., 1807, in *Fifth Report*, Vol. III, Appendix 31, pp. 455-65 and pp. 562-95 respectively. In fact, the whole Appendix 31 can be usefully referred to regarding this controversy; also see A. D. Campbell, *op. cit.*, pp. 32-33.

jama . . . is a dead loss to the State, whose receipts are reduced precisely to this extent'. Nor 'did it lead to any accumulation of capital or reproductive expenditure'. 'The zamindars, in general', it was held, 'are rarely saving men, and their income is expended in dead consumption, not in reproduction.' 'It goes', wrote Mr. Thackeray, 'to feed the idle and unproductive; for footmen and peons; opera girls and dancing girls; giving great dinners to country parties, and giving treats to Brahmins; (these) are expenses which bring nothing back; they are all consumption; there is no reproduction; and they are consumed in a great degree, upon worthless domestics and in waste.'¹

On the other hand, as Mr. Thackeray argued, 'where the rent goes to the small proprietor, it is immediately added to the agricultural stock, applied to the improvement of the land, to the support of the productive industry'.² The small landholder 'would invest the rent of land (left to him by a limitation of the government assessment) in that kind of stock which he considers most profitable and secure . . . He will apply the rent to the purchase of more bullocks if he wants them; he will plant a few trees; he will give his land a better manuring, or clear a field of waste; keeping certain profits which must arise from his secure possession of the land, he will most likely expend all the rent upon his land, as far as it is susceptible of improvement. If he has saved more than he can readily and probably employ in increasing his stock, or improving his estate, he will lend it to some others, to employ in the same way, for a man of his turn will not lend to a spend-thrift'.³

These arguments in favour of the cultivating proprietors were supported on the authority of 'the soundest authors, the greatest political economists and wisest statesmen'. Adam Smith was quoted in favour of the thesis that the advantage of large capital possessed by large intermediate proprietors was of no particular benefit in the context of Indian conditions.⁴ Since division of labour had little effect on agricultural productivity, large capital could achieve little in the field of Indian agriculture by promoting division of labour. On the other hand, the same amount of capital shared by numerous small proprietors was likely to lead to greater improvement.

¹ Minute by Mr. Thackeray, 4 Aug. 1807, in *Fifth Report*, Vol. III, pp. 570-71.

² *Ibid.*, p. 571

³ *Ibid.*, pp. 571-72

⁴ *Ibid.*, p. 570

The choice between the two alternative systems of revenue settlement turned upon the question whether rent or profit was the main source of capital accumulation in agriculture. The decision as to which party should be allowed to benefit by the limitation of government demand either in perpetuity or for a limited period depended upon whether the authorities regarded rent or profit as the main basis of agricultural improvement. At the time of the Bengal settlement, this question was settled by English landed aristocrats who had their own preconceived ideas on this subject. They regarded rent as the basic source of capital accumulation in agriculture. As we have explained, the climate of economic and political opinion changed subsequently. The opinion shifted in favour of regarding profit as the main source of capital accumulation in agriculture. This was particularly due to the influence exercised by James Mill on economic thinking after 1819 and of the theory of rent as enunciated by T. R. Malthus and developed by David Ricardo, as explained in Section IV of this chapter.

In the light of the rent theory, sacrifice of government revenue in favour of the large landed proprietors appeared all the more lamentable. The Home authorities seized upon this theory and argued in favour of it with great emphasis.¹

It would thus be seen that the *ryotwar* settlement offered prospects of large benefits to the State and to the cultivating proprietors and of rapid extension and improvement of cultivation. In contrast with the failures of the Bengal settlement they were too alluring. The Home authorities, therefore, wholeheartedly recommended the adoption of the principles of *ryotwar* settlement in territories in which revenue settlements had not yet been made permanent, particularly in the Ceded and Conquered Provinces.²

(iv) *Influence of Developments in the British Economy and Classical Political Economy on the New Revenue Policy*

As already mentioned briefly, the developments in the British economy as well as the new ideas associated with classical political economy played an important part in shaping the new land revenue

¹ See Revenue Letter from Bengal 17 July, 1818, and Revenue Letter to Bengal 9 May, 1821, in *Report of the Select Committee, 1832*, Vol. III, Appendix, pp. 101-3.

² See Revenue Letter to Bengal, 29 Jan., 1813, in *East India Selections*, Vol. I, pp. 75-84.

policies. The British economy, in the second half of the eighteenth century, was transformed by the Industrial Revolution. The output of manufactured goods in Britain and the need for raw materials for British industries expanded enormously. The Industrial Revolution also strengthened the power and influence of the manufacturing and the trading classes in English society. In the wake of the Industrial Revolution, it became necessary to find adequate outlets for the 'flood of manufactured goods', and sources of supply of raw materials.¹ India was regarded as an important potential market for manufactured goods and a source of raw material supply. But trade with India was the monopoly of the East India Company whose governing objective was not the creation of a market for British manufacturers but 'to secure a supply of the products of India and the East Indies (especially spices, cotton goods and silk goods), which found a ready market in England and Europe'² and yielded rich profits. Even after having become rulers in India, the Company had utilised its power mainly to extract a large amount of revenue with which to purchase its 'annual investments' which were shipped to England, and sold in the English and European markets to provide the revenues and dividends of the Company. Under such a system, the trade of India could not develop in a manner which could subserve the interests of British manufacturers. Thus the traditional system of trade and administration had to be re-assessed and adapted to the requirements of creating a free market in India in place of the monopoly of the East India Company.

The demand for the abolition of East Indian Company's trade monopoly came from the British merchants and manufacturers who clamoured for free entry into East India trade.³ Efforts were made on every occasion for the renewal of the Company's charter by the merchants of London, Liverpool and Bristol to break down the commercial monopoly of the Company and to participate in East India trade which was estimated to be a true mine of gold.⁴ All the numerous interests opposed to the exclusive monopoly of the East India Company combined to organise a powerful offensive against it, which had the support of the rising English manufacturing

¹ R. P. Dutt, *India Today*, (Bombay, 1947), p. 96; also see Stokes, *op. cit.*, p. 38; also see Daniel Thorner, *Investment in Empire* (Philadelphia, 1950), pp. 1-2.

² R. P. Dutt, *op. cit.*, p. 86.

³ Daniel Thorner, *op. cit.*, pp. 2-3; also see C. H. Phillips, *The East India Company (1784-1834)*, (Manchester, 1940), pp. 181-209.

⁴ Marx, *Articles on India*, (Bombay, 1945), p. 44.

interests as well as of the powerful trading interests excluded from the monopoly of the East India Company.¹

This offensive was directed not merely against the Company's privileges of trade but also against their entire system of administration in India. Apart from exposing the fallacy of the 'mercantilist' principles on which the trade of the Company was conducted, the opponents of the Company questioned the very fundamentals of their administration in India. They sought to expose the ruinous consequences of their rule for the entire country. In fact, in the course of this offensive, a vast literature grew up, which was directed against the misgovernment of the East India Company.²

Significantly enough, the offensive against the Company's monopoly had been originally initiated by Adam Smith, 'the father of the classical political economy', in his *Wealth of Nations* published in 1776.³ He had declared that the Company and its Court of Directors and the Court of Proprietors were not 'fit to govern, or even to share in the government of a great empire', because 'no other sovereigns ever were, or from the nature of things, ever could be, so perfectly indifferent about the happiness or misery of their subjects, the improvement or waste of their dominions, the glory or disgrace of their administration as from irresistible moral causes, the greater part of the proprietors of such a mercantile Company are, and necessarily must be.'⁴ It was the criticism of Adam Smith and his contemporaries which helped in the establishment of the control of the British Parliament over the commerce and administration of the Company in the East Indies. In 1784, Pitt's India Act established the principle of control of the affairs of the Company by the British Government through the Board of Control, which consisted of the six members of the Privy Council. However, during the last quarter of the eighteenth century, when the Industrial Revolution had only just started, the British manufacturing and trading interests were

¹ R. P. Dutt, *op. cit.*, p. 97; also see Amles Tripathi, *op. cit.*, pp. 123-32; also see Ramkrishna Mukherjee, *The Rise and Fall of the East India Company* (Berlin, 1955), pp. 229-48.

² R. P. Dutt, *op. cit.*, p. 97; also see Amles Tripathi, *op. cit.*, p. 130. Among these tracts, the most outstanding are those ascribed to Mr. Robert Rickards, an M. P., who was one of the fiercest of the Company's opponents. (Stokes, *op. cit.*, p. 323). "India or Facts" one of the tracts written by Mr. Rickards, in two volumes, contains an exhaustive critique of the Company's administration, and a most ruthless exposure of the Company's policies in India.

³ See Adam Smith, *Wealth of Nations*, Book IV, Chapter VII.

⁴ Adam Smith, *Wealth of Nations*, Modern Library Edition, New York, p. 710.

not strong enough either to bring about the abolition of the Company's commercial monopoly or any basic reform in their system of administration in India.¹ Moreover, the French Revolution had overshadowed all other questions in Britain in the last decade and a half of the eighteenth century. It was only in the first decade of the nineteenth century that the offensive of the British merchants and traders gathered momentum. Since the charter of the Company was due to be renewed in 1813, the rival interests built up a powerful opposition against the entire corrupt monopolist administration of the East India Company in India and against the continuance of their monopolistic commercial privileges.²

The Free Traders, as the opponents of the Company were called, argued that the Company's rule was not only without benefit to itself but was positively ruinous to India. They alleged that the Company was interested only in extracting tribute and not in finding a market for British goods in India. It had neither the capital nor the skill and incentive to develop its vast trading area. If India was to be developed as a market for British manufacturers and a source of raw materials for British industry, the Company's administration had to be drastically changed. The Company had first to cease to combine the functions of ruler and trader which were incompatible with each other. Superfluous posts and unnecessary pomp incidental to the hankering of the Company's servants for private fortune and of the directors for patronage had to be swept away. The financial burden of the Company's administration on the country had to be kept as light as possible so that the wealth of the people could fructify in their pockets and promote trade.³ All obstacles hindering the free flow of British settlers, capital, skill and goods had to be destroyed. And if this was done, the prospects of profitable trade with India which benefited both British industry and commerce and India, were limitless.⁴

In response to the clamour of Free Trade merchants and hundreds of petitions, before renewing the Company's charter which was due to expire in 1813, the British House of Commons appointed in 1809 a Select Committee 'to enquire into the present state of the affairs of the East India Company, and to report the same, as it shall appear to them, with their observations thereupon, to the House'.

¹ Ramkrishna Mukherjee, *op. cit.*, p. 229.

² See Amles Tripathi, *op. cit.*, pp. 123-32.

³ Stokes, *op. cit.*, p. 38.

⁴ *Ibid.*, p. 38-39.

This Committee commenced its sittings in 1810 and continued its work during the two following years. It examined the Company's entire system of administration in India in great detail and submitted five reports to the House of Commons. After a laborious examination of numerous documents, the Committee presented a full report in 1812, known as the Fifth Report, in which it described the internal administration of the Company in the departments of revenue and judicature within the British territories.

According to Mr. John Sullivan, 'the publication of that valuable report may be considered to have formed another epoch (next to the year 1793 when Permanent Settlement was made in Bengal) in Indian history'.¹ For the first time, 'a mass of highly important information was brought to the notice of the public by the Committee. Many documents pertaining to the land tenures and the system of land revenue administration were brought together and formed part of the Appendices to the Fifth Report'.

In this report, the Committee exposed for the first time the failure of Lord Cornwallis's institutions and laid bare their weaknesses and deficiencies, reviewed already in Section II of this chapter. It clearly revealed the extreme insecurity and oppression suffered by the actual cultivators under the zamindari system and in contrast pointed out the advantages of the *ryotwari* system. Regarding the Permanent Settlement the Committee came to the conclusion that 'the experience which has been obtained of permanent settlement, suggests the expediency and wisdom of proceeding with great circumspection in the extension of it on the principles on which they have hitherto been introduced'.² On the other hand, about the *ryotwar* system they wrote:

It appears to the Committee, from the examination which they have made into the effects of the ryotwar principal of settlement, . . . that it has greatly improved the situation of the cultivator, by limiting the bounds of the public assessments, and adjusting the actual demand on each person subject to such assessments, according to his ability to satisfy it; relieving him from the oppressive extractions of the native revenue officers, and securing him in the protection of his property and rights (it) has had the effect of binding them

¹ John Sullivan's Observations, *Report of the Select Committee, 1832*, Appendix, p. 50.

² *Fifth Report*, Vol. I, p. 320.

(ryots), to the Company (and) the ryots have received a new incentive to industry, cultivation has been gradually extended by which an augmentation of the public revenue has been yielded, without an increase of assessment.¹

The Committee, therefore, arrived at the conclusion that the system of *ryotwar* settlements which had afforded to the British officers the means 'of reforming abuses, removing oppressions, ascertaining individual rights, and obtaining a real knowledge of the people and of the internal affairs of the country' is 'highly expedient'. They further emphasised that 'the mode . . . for permanently settling the land revenues should be reconsidered in its principles, before it be applied to the provinces into which it has not yet been introduced, with a view to such modifications and improvements of it, as the more intimate practical knowledge . . . of the local concerns of the country may render desirable to be adopted'.²

It was frankly acknowledged that their 'opinion has derived material strength, from an attentive consideration of the documents which are inserted in the last article of the Appendix (Appendix 31) to this Report'.³ These documents have already been noticed in Section III of this chapter.

Thus, it would be seen that the Committee commended the *ryotwari* mode of revenue settlements. In fact, the Fifth Report of the Committee was drafted by an official friend of Thomas Munro, Mr. James Cumming, who had great admiration for him and his system of *ryotwar* administration.⁴ The Committee had also been highly impressed with able memoirs and reports prepared by the officers of the Madras Presidency.

As is well known, the publication of this Report only advanced the cause of the Free Traders whose offensive against the Company became eventually successful in 1813. The central problem before the Board of Control and the Court of Directors after the publication of this Report was to introduce such a system of land and revenue administration as may advance the cause of Free Traders in India, viz., to develop India as a market for manufacturers and as a source of raw materials. The core of this problem was the reform of land tenures and land revenue administration.

¹ *Fifth Report*, Vol. I, p. 236.

² *Fifth Report*, Vol. I, p. 321

³ *Ibid.*

⁴ *Fifth Report*, Vol. I, Preface to Madras Edition, page (b).

The Board of Control in England tried to enforce on the governments in India a policy which insisted on the necessity and expediency of postponing all arrangements of a permanent or irrevocable nature respecting the land revenue, until the administration was able to gather the necessary knowledge about the rights and tenures. The Home authorities wrote to the Bengal Government, that before declaring a settlement permanent, they considered a 'patient and laborious' scrutiny of individual rights, a careful investigation of local peculiarities, together with a minute survey of the extent of cultivation and the productive powers of the land as indispensable.¹

Further, the opinion of Home authorities gradually turned against the creation of a landed aristocracy in violation of the rights of property of the village zamindars and other resident cultivators. Since the facts regarding the peculiarities of the Indian land tenures and the constitution of village communities were made available in the Fifth Report and came to be appreciated now much more than ever before, the Home authorities leaned more and more in favour of safeguarding the rights of cultivating proprietors as against the policy of creating large landed proprietors. In their Revenue Letter to Bengal Government dated 29th January, 1813, they wrote :

The most solid basis of public prosperity is private property in land; and nothing is further from our intention than to recommend any arrangement which would, in the least, interfere with the rights of resident proprietors, or which would obstruct the restitution of estates to their legitimate owners, even though they may have been for a time abandoned.²

Similar sentiments in favour of actual cultivating proprietors and ryots were expressed in all the subsequent despatches of the Home authorities.³

In fact, the shift of opinion in favour of the cultivating proprietors and ryots was so sharp that at one stage, there were even differences of opinion between the Board of Control and the Court of Directors. The dominant voice, however, was always that of the Board of

¹ Revenue Letter, 1 Feb., 1811, in *East India Selections*, Vol. I, p. 2.

² Revenue Letter to Bengal, 29 Jan., 1813, para. 30, in *East India Selections*, Vol. I, p. 77.

³ See Revenue Letter to Bengal Government, 16 March, 1813 in *East India Selections*, Vol. I, p. 141., 6 Jan., 1815, (*Ibid.*, p. 284); 7 Oct., 1815, (*Ibid.*, pp. 294-95); 15 Jan. 1819, (*Ibid.*, pp. 351-63); 9 May, 1821, (*Ibid.*, Vol. III, p. 437-41).

Control, who were more pronouncedly against the large landed proprietors than the members of the Court of Directors.¹

INFLUENCE OF CLASSICAL POLITICAL ECONOMY AND THE THEORY OF RENT

Though contemporary public opinion in England after 1812 thus shifted in favour of the cultivating proprietors and against the aristocracy, it remained for the classical political economy to provide a precise and incontrovertible theoretical basis for the new thinking on this subject. The Home authorities were able to find in the contemporary science of political economy the sound principles of taxation on the basis of which the amount of land revenue to be demanded from the peasants could be determined.

In the early nineteenth century, eminent economists like James Mill, David Ricardo and T. R. Malthus contributed the main elements of the theoretical foundation of the new land revenue policy.

T. R. Malthus was appointed the first Professor of History and Political Economy in 1806 at the Haileybury College in London which was a residential establishment started by the East India Company to train their officers in the European branches of learning and other oriental subjects before they embarked on their duties in India.² Malthus remained as Professor in this College until his death in 1834. James Mill who had published his *History of British India* in 1818, was employed in 1819, with the assistance of David Ricardo and other friends, as the Assistant Examiner of Correspondence in the Revenue Department at East India House,³ where he succeeded in 1830 to the chief executive office, viz., that of Examiner. James Mill had already expounded in his *History* the principles on the basis of which he would have liked the Government of India to be reformed. After his employment in the East India Company's service, he was at the very centre of power and in a position to carry into practice those principles.⁴ Mill worked at the East India House until his death in 1836. David Ricardo was never directly associated with Indian affairs. But his close friendship with

¹ For an instance of these differences, see John Sullivan's Observations on the Land Revenue of India, in the *Report of the Select Committee*, 1832, Appendix, pp. 56-58.

² A. K. Ghoshal, *Civil Service in India*, (Calcutta), pp. 298-99.

³ William Foster, *East India House*, p. 197.

⁴ Stokes, *op. cit.*, p. 48.

James Mill and T. R. Malthus must have frequently drawn him into discussions on Indian affairs. Mill and Ricardo used to meet in London regularly, at one time taking 'almost daily' walks together in the park.¹ Ricardo from time to time paid week-end visits to Haileybury to stay with Malthus, and Malthus made frequent visits to London where he invariably had meetings with Ricardo.² David Ricardo had mainly exercised his influence on Indian policies through his theory of rent which was applied by James Mill to the formulation of practical policies for Indian land and revenue administration as we have explained below.

Among the other eminent economists who had turned their attention to a study of Indian land tenures, the most noteworthy were John Stuart Mill,³ J. R. McCulloch⁴, and Richard Jones.⁵ But since these economists wrote during a period which lies outside the scope of our study, we have not analysed their contribution to the new thinking on the land revenue policy.

The influence exercised by classical political economy lay in the realm of the theory of taxation and of the nature of land tenures which were sought to be established in India. The theory of taxation and the new approach to Indian land tenures were derived directly from the theory of rent. This theory was first formulated by Malthus and later developed by Ricardo in his *Principles of Political Economy* published in 1819.

Malthus had 'discovered' the law of rent in 1815 in the course of preparing his lectures for his pupils at Haileybury.⁶ According to this law, in the total revenue of the society, the element of rent was quite distinct from profits or wages, and could be determined in an exact scientific manner.⁷ Rent originated from the tendency for the population to outgrow food supply and the consequent necessity of resorting to poorer soils as the society progressed in population

¹ *Works and Correspondence of David Ricardo*, edited by P. Sraffa, Vol. VI, pp. xv-xvi.

² *Ibid.*, p. xix.

³ See J. S. Mill, *Principles of Political Economy*, (1886, 9th edition), Book II, Chapter VIII, pp. 399-404.

⁴ See J. R. McCulloch, *Taxation and Funding System*, (London, 1852), Appendix II, Indian Revenue System, pp. 485-93.

⁵ Rev. Richard Jones, *An Essay on the Distribution of Wealth and on the Sources of Taxation*, (London, 1831), Chapter IV, Sec. II on Ryot Rents in India, pp. 109-84; also see Appendix VIII, Note on Ryot Rents, pp. 32-49; also see *Literary Remains of Richard Jones*, edited by Rev. William Whewell, (London, 1859), pp. 211-15 and 271.

⁶ Stokes, *op. cit.*, p. 87.

⁷ *Ibid.*

and wealth.¹ Rent was the differential advantage enjoyed by all soils of a higher quality over the marginal soil brought under cultivation, on which the capital employed merely replaced itself and yielded the ordinary prevailing rate of profit after payment of the wages to the labourers at the prevailing rates. Thus, the element of rent could be exactly determined by subtracting from the total or gross produce of any land the cost of wages and the ordinary rate of profit on the capital employed.² Malthus regarded rent as a special bounty of Providence which made the existence of a leisured class possible.³

David Ricardo, proceeding from the same premises as Malthus, demonstrated that rent was a monopoly price which could be charged because land was scarce in quantity and variable in quality and because it had been appropriated as private property. Ricardo characterised rent as unearned income which was paid to the landlord for the use of the original and indestructible powers of the soil.⁴ According to him, the rise of rent was always the effect of the increasing wealth of the country and of the difficulty of providing food for its augmented population. It was always the effect but never the cause of wealth for wealth often increased most rapidly while rent was either stationary or even falling. Rent, according to him, increased most rapidly as the productive powers of the disposable land increased.⁵

Unlike Malthus, Ricardo showed that the interest of the landlords, the class which lived primarily on rent, was always opposed to that of every other class in the community,⁶ since 'all classes . . . except the landlords will be injured by the increase in the price of corn'.⁷ According to Ricardo, rent was merely a deduction from the total wealth of the society, which accrued to the landlords merely by virtue of their possessing the right to private property in land and the magnitude of which depended upon the inherent differences in the quality of the land brought under cultivation under the pressure of an increasing population.

According to Ricardo, the advantages arising from the abundance of agricultural produce and the consequent low level of wages of labour and the high level of capital accumulation would, in the first

¹ *Ibid.* ² *Ibid.*, p. 88.

³ Malthus, *Principles of Political Economy*, pp. 194-217.

⁴ Ricardo, *Principles of Political Economy and Taxation*, Everyman's Library Edition, p. 33.

⁵ *Ibid.*, p. 10

⁶ *Ibid.*, p. 225.

⁷ *Ibid.*, p. 225.

instance, be enjoyed by labourers, capitalists and consumers; but with the increase of population these advantages will gradually pass over to the proprietors of the soil.¹ All extraordinary profits, according to him, were in their nature but of limited duration, as the whole produce of the soil, after deducting from it only such moderate profits as are sufficient to encourage accumulation, must finally be appropriated by the landlord.²

The implications of the Ricardian version of the theory of rent were evident to all those who were responsible for the formulation of Indian land and revenue policies. If rent was unearned income, and only an effect and not a cause of wealth, it was a peculiarly suitable object for taxation, since taxation in this case would not check production in any way. Why? The answer was that rent neither affected the rate of profit nor the price of corn, since both were governed by the costs of production on the marginal land which yielded no rent under Ricardian assumptions. The marginal land was obtained without rent and was brought under cultivation only when it returned, by its yield, only the wages of labour and the ordinary profits of stock employed. Therefore, the entire rent of a country could be taken away by way of taxation without in any way adversely affecting production and wealth.

If rent was a deduction from the total wealth of the society, and maintained an idle leisured class which reaped the fruits of economic progress at the expense of all the other classes of society, it was naturally inequitable in the eyes of the rising class of merchants and industrialists which was making a bid for economic and political power. The French Revolution had already created a climate of hostility against the landed aristocracy and its privileges. The Ricardian theory of rent supplied a theoretical basis for the condemnation of landed aristocracy and its privileges.

Inevitably, the Ricardian theory of rent undermined the basis of the theory of agricultural development which had inspired the Bengal Permanent Settlement. It was now believed 'that the creation of an artificial class of intermediate proprietors between the government and the cultivators of the soil would be highly inexpedient'.³ It was now asserted that the 'removal of intermediate landholders or

¹ *Ibid.*, p. 225.

² *Ibid.*, pp. 224-25; also see Marx, *On Colonialism*, p. 54.

³ Lord Canning in his letter to the Chairman and Deputy Chairman of the East Indian Company, 17 Aug., 1817, cited in John Sullivan's *Observations*, *op. cit.*, p. 56.

middlemen has been considered as an advancement' in civilisation.¹ The old belief in the ability of the landed aristocracy to promote the improvement and expansion of cultivation disappeared. Rather it now came to be generally believed (as had been argued by the officers of the Madras Presidency in India) that the immediate cultivator of the soil would be a far better instrument of agricultural improvement than the large landed proprietors who had no direct interest in cultivation. This view was most forcefully put forward by James Mill, in his *History*. Condemning the theory of the Bengal Permanent Settlement, he wrote:

When our countrymen draw theories from England, it would be good if they understood England. It is not because in England we have a landed aristocracy that our agriculture has improved, but because the laws of England offered to the cultivator protection against his lord. It is the immediate cultivators who have increased so wonderfully the produce of the land in England, not only without assistance from the proprietors but often in spite of them.²

Mill maintained that 'no principle is more thoroughly established and indeed more universally admitted than that the grant of leases, and leases of a long duration, to the immediate cultivators of the soil are essential to all spirited and large improvement'.³ He argued that instead of sacrificing the rights of the State to those of the zamindars (by fixing their revenue payments in perpetuity and making them the proprietors of the land) these rights 'might have been bestowed upon those upon whom they would have operated with force incomparably greater than that with which they could operate upon any other class of men... upon those from whom alone, in every country, the principal improvements in agriculture must be derived, the immediate cultivators of the soil'.⁴

How the immediate cultivators of the soil could contribute much more to agricultural improvement, in the absence of intermediate proprietors, was already shown by the officers of Madras Presidency in their Minutes and Reports. A sharp edge was, however, now added to their logic since the theory of rent proved the parasitic nature of the landlords' existence and demonstrated how there was

¹ *Ibid.*, p. 57.

² *History of British India*, Vol. V, (4th edition), (London, 1840), pp. 489-90.

³ *Ibid.*

⁴ *Ibid.*

a fundamental opposition between their interests and those of the whole society. Thus, in a broad way, the Ricardian theory of rent only rationalised the inferences which had been reached by the protagonists of the *ryotwar* system on empirical grounds. Even more, it supplied them with a scientific basis for the assessment of rent for an individual farm, which had so far been made largely in a pragmatic manner on the basis of records of past collections and an arbitrary estimate of what the land could yield.

In England, different sections of people grasped the significance of the rent theory in different ways. For the Court of Directors it had an appeal on account of the theory of taxation derived from it by James Mill. He had argued in his *History* that 'the Hindu mode of raising the revenue of the State wholly or almost wholly, by taking as much as necessary of the rent of land . . . has no inconsiderable recommendation from science (of political economy) itself'.¹ He, in fact, believed that the State in India was the actual owner of the soil,² and drew the entire rent, (sometimes even more), from the land.³ Therefore, he advocated that the British power in India should not renounce but maintain its right of ownership of the soil and should claim the entire rent of land, in its exact scientific sense, leaving only as much as was sufficient to pay the wages of labour and ordinary profits of stock.

For the Free Traders, the theory of rent was a weapon with which to attack the Company's administration in India. Since the Company had sought to establish a landed aristocracy and subjected the immediate cultivators of the soil to their rapacity and oppression it had undermined the productive powers of the country, checked the growth of production of raw materials and reduced the purchasing power of the masses of the population. The consumption of British manufactures could not, therefore, expand until the Company's monopoly was abolished and the land revenue administration in India reorganised on the new lines suggested by the Ricardian theory.

As regards the Board of Control and the British Government, the theory of rent only convinced them of the necessity of establishing a more efficient land revenue system. Therefore, before agreeing to the proposals for an extension of the system of permanent settle-

¹ *History of British India*, Vol. I, p. 324

² *Ibid.*, Book II, Chapter 5, pp. 299-328.

³ Observations on the Land Revenue of India by James Mill, *Report of the Select Committee, 1832*, Vol. III, Appendix, p. 48.

ment to the new territories, they considered it necessary to protect and safeguard the rights of all classes of people in the agricultural community and regulate the exercise of these rights in a manner which would serve to bring about an expansion of raw material production and an expansion of the market for British goods in India through an increase in the purchasing power of the people. This object could be achieved only if the immediate cultivators were protected against the oppression of the landlords, if their revenue payments were fixed for long periods, and if they were thus free to enjoy all the benefits of an expansion and improvement of cultivation. It was enough if the cultivator was compensated to the extent of wages of labour and the profits of stock employed. In one of the Revenue despatches to Bengal Government dated 10 November, 1824, the Home authorities wrote:

Should you succeed in securing to the ryots these rights which it was the intention of the Permanent Settlement to preserve and maintain . . . and provide such a limit to the demand upon the ryots as fully to leave them the *cultivator's profits*, under leases of considerable length, we should hope the interests of that great body of agricultural community may be satisfactorily secured.¹

¹ *Report of the Select Committee, 1832*, Vol. III, Appendix, p. 105.

New Principles of Revenue Settlements

THE IMPACT of the 'new approach' on the land and revenue policy in the Ceded and Conquered Provinces was a slow and protracted process which extended over two decades. During this period a major shift in policy occurred, in respect of practically all aspects of the land and revenue administration. We shall, however, be concerned mainly with the change in the approach to the question of relative rights of the various classes of the agricultural community during this period.

(i) *Differences of Opinion between Bengal Government and the Home Authorities prior to 1822*

Despite the fact that the Home authorities cautioned the Government of India against the introduction of permanent settlement and recommended the application of the *ryotwar* principles beginning from the year 1813 onwards,¹ a new approach in the Ceded and Conquered Provinces was adopted only during the years 1819 to 1822. An important reason for this delay was that the Home authorities faced a recalcitrant local administration in the Bengal Presidency. For a number of years, most senior officers of the Bengal Government including the Governor General, Lord Minto, had continued to thwart the instructions of the Court of Directors and pressed for an early conclusion of a permanent settlement in the Ceded and Conquered Provinces on the Bengal principles.² In fact, during the years 1808 to 1819, as already mentioned, long despatches full of abstract political and economic arguments, often

¹ Revenue Letter to Bengal, 29 Jan. 1813, *East India Selections*, Vol. I, pp. 75-76.

² Revenue Letters from Bengal dated 15 Sept., 1808, (*East India Selections*, Vol. I, pp. 68-71); 14 Dec., 1811, (*Ibid.*, pp. 174-76); Secret Revenue Letter from Bengal dated 9 Oct., 1812, (*Ibid.*, pp. 134-36); also see H. Colebrooke's Minute dated nil, (*Ibid.*, pp. 44-45) and J. Lumsden's Minute, 11 June, 1808, (*Ibid.*, pp. 55-61).

supported by the 'speculative' principles of the science of political economy, were exchanged between Fort William and the India House.¹ In the course of this correspondence, all aspects of the revenue and judicial administration in the Bengal Presidency were reviewed in the light of the principles and practices followed by the native rulers in determining the rights of the agricultural community and the amount of land revenue.

By 1822, the mass of information on the adverse consequences of the British policy already available induced the Home authorities to obtain the fullest knowledge of the indigenous revenue systems, tenures, customs, habits and manners of the people in the new territories,² before taking any decision on the arrangements for their permanent governance. They studied all the proceedings of the Bengal Government, pointed out their defects and suggested such modifications and improvements as they now considered necessary from the new point of view. In fact, since the Bengal Government for long continued to lean in favour of an early conclusion of permanent settlement, they were watchfully attentive to the language of their current correspondence with India, so that it could be construed in such a way as to help them to prove to the governments in India that the permanent settlement was inexpedient and that they should formulate a new plan.³ They also forwarded the reports of Thomas Munro relating to the *ryotwar* plan of settlements with the intention that the principles upheld in these reports could be applied to the Ceded and Conquered Provinces.⁴

But the Bengal officers, during all these years, upheld the principles of the Bengal Permanent Settlement. In the case of the Ceded and Conquered Provinces, they thought that this freedom of action had been restricted by the promulgation of the British regulations in 1803 which contained the pledge of a permanent settlement given to the landholders, 'zemindars and other actual proprietors'.⁵

¹ Revenue Letters to Bengal, 15 Jan., 1812 (*Ibid.*, pp. 61-67), 16 March, 1813, (*Ibid.*, pp. 136-42), and Revenue Letter from Bengal, 17 July, 1813, (*Ibid.*, pp. 179-94).

² John Sullivan's Observations in *Report of the Select Committee, 1832*, Vol. III—Revenue, Appendix, p. 51.

³ Revenue Letters to Bengal, 6 Jan., 1815 (*Ibid.*, pp. 277-88), and 17 March, 1815, (*Ibid.*, pp. 289-92).

⁴ Enclosure with Revenue Letter to Bengal, 29 Jan., 1813, *East India Selections*, Vol. I, pp. 84-131.

⁵ Secret Revenue Letter from Bengal, 9 Oct., 1812, in *East India Selections*, Vol. I, pp. 131-34.

They also argued that the application of a *ryotwar* system would necessitate the employment of a large number of officers for assessing and settling the revenue payable by each individual cultivator. Since native officers could not be relied upon to carry out the settlement operations honestly, it was thought necessary that these officers must be Europeans. The number of Europeans available was very limited and, therefore, the *ryotwar* system was not practicable in Bengal.¹ Further, the recognition of the zamindar's right to property in the soil, in their opinion, left no option to go back to the cultivators of the soil and introduce the Madras *ryotwar* plan of settlement.² They considered the survey of the revenue resources and the land tenures of the country as absolutely unnecessary before declaring a permanent settlement, since all the relevant information necessary for concluding a settlement had already been obtained.³

Naturally, the Home authorities had to show considerable determination. When arguments failed, they finally ordered that 'no settlement shall be declared permanent till the whole of the proceedings preparatory to it have been submitted to them, and till the Resolutions of the government have received their sanction and concurrence'.⁴ They further considered it essential that before they were asked to pronounce judgement on the adequacy and stability of any settlement, they should have more ample information than had yet been furnished regarding the general character and resources of the districts, the extent of the land cultivated and capable of being cultivated, and the quality and value of the produce. They also wanted that they should receive full details of all local tenures and usages, of the rates of rent and of the manner in which rent was collected and distributed, of the constitution of the village communities, and the rights and interests of the classes composing them, of the character and habits of the people, and generally, of all facts relating to the socio-economic conditions in the countryside.⁵ In the meanwhile, temporary revenue settlements were to be made for a period not extending five years.

¹ Report of the Board of Commissioners, 30 May, 1815, cited in Revenue Letter from Bengal, 7 Oct., 1815, *Ibid.*, p. 298 and pp. 467-72.

² *Ibid.*

³ See H. Colebrooke's Minute, *Ibid.*, pp. 44-45.

⁴ Revenue Letter to Bengal, 1 Feb., 1811, para. 39, *East India Selections* Vol. I, p. 5.

⁵ Holt Mackenzie's Memorandum, 1 July, 1819, para. 224, *Revenue Selections* (1818-1820), p. 60.

PROCEEDINGS IN BENGAL

When the orders of the Home authorities made it clear in unmistakable terms that they would not declare a permanent settlement without full investigations, the Bengal Government took steps to conduct their settlements in such a manner 'as would enable them (the Home authorities) to apply the principle' (of permanency of government assessment).¹ In like manner, they now considered that 'the minute ascertainment of the tenures, rights, and privileges of the agricultural community' and the various other particulars was desirable in the interest of good administration² and also from the point of view of extending the benefits of a permanent settlement to all classes.

Accordingly, Holt Mackenzie, Secretary, Territorial Department of the Bengal Government, prepared a long memorandum in the course of which he reviewed the past proceedings of the British revenue administration in the Ceded and Conquered Provinces, and compared and contrasted their consequences with those in Bengal. This memorandum, dated 1 July, 1819,³ presented, for the first time, a comprehensive and candid analysis of the general principles of revenue settlements followed in those provinces and of their repercussions on the rights of the various classes of the agricultural community. In the light of his analysis, Holt Mackenzie came to the conclusion 'that the proceedings of the revenue authorities do not afford complete information on any one of the points'⁴ desired by the Home authorities. He, therefore, suggested a new plan of revenue settlements in the course of which it was proposed to collect 'full and minute information' required by the Honourable Court. This became the basis of all the subsequent measures adopted by the Bengal Government which were outlined in the two resolutions of the Bengal Government dated 22 December, 1820,⁵ and 1 August, 1822,⁶ and were incorporated in Regulation VII, 1822.⁷ All these documents embodied the new principles of revenue settlements, which departed basically from those adopted in earlier settlements.

(ii) *New Principles Suggested in Holt Mackenzie's
Memorandum of 1 July, 1819*

The measures proposed by Mackenzie indicate a definite departure

¹ *Ibid.*, para. 226, p. 61.

² *Ibid.*, para. 227, p. 61.

³ *Revenue Selections (1818-1820)*, pp. 9-193.

⁴ *Ibid.*, para. 225, p. 60.

⁵ *East India Selections*, Vol. III, pp. 229-67.

⁶ *Ibid.*, pp. 319-64.

⁷ *Ibid.*, pp. 369-86.

from the premises and principles of the Bengal Permanent Settlement, and reveal a very sympathetic approach to the rights of the village communities and of its members, which had so far been ignored in the British regulations and settlements.¹ There was clear recognition of the fact that at the time of the cession and conquest of the provinces, 'in almost all the districts, the largest proportion of the land belonged indisputably to village zemindars, the title sometimes held by an individual, but oftener by a multitude of sharers termed Putteedars'.² It was also frankly admitted that the 'tendency of our system has been to annihilate all tenures of which the holders have not been vested with the character of a *sadar malguzar* (direct engager with the government for collection and payment of revenue)'.³ Mr. Mackenzie referred to the notion prevalent amongst all British officers that the government, in making settlements with parties having the character of zamindars, had vested them with the right of private property in the soil similar to the right enjoyed by the landlords in Britain.⁴ He also referred to the pervasive influence of this notion in the matter of defining the status of not only parties admitted to revenue engagements as proprietors, but also of those who had acquired landed property at public auctions for arrears of revenue or by private sale by the so-called proprietors.⁵

Similarly, as regards the rights of big *taluqdars* in the years preceding the British rule, Mackenzie's analysis brought out the fact that the 'rights of village zemindars, as the chief cultivators and sole owners of the land, unless distinctly alienated, were fully recognised, even where the revenue of government was received from *taluqdars* or other superior holders'.⁶ He regarded the *taluqdari* tenure as no more than the privilege of collecting the government revenue which was hereditary but which never extended to a claim

¹ Holt Mackenzie was an earlier and more influential convert to the Ricardian view of the theory of rent. Within four years of its promulgation by Malthus, he had fully grasped its significance for India, and he had sought to apply it to the problems of land and revenue administration in the Ceded and Conquered Provinces. One of his contemporaries, writing to Lord William Bentinck in 1828, had written, 'there is in his papers too great a reliance on the principles of political economy'. See Stokes, *op. cit.*, pp. 94-95.

² Mackenzie's Memorandum, 1 July, 1918, para. 413, *Revenue Selections* (1818-1820), p. 92.

³ *Ibid.*, para. 569, p. 122.

⁴ *Ibid.*, para. 566, p. 120; also see fn. to para. 349, p. 80.

⁵ *Ibid.*

⁶ *Ibid.*, para. 394, p. 88.

to property in the soil.¹ In fact he argued that the origin of most of the *taluqdari* estates was of a questionable nature and they were created by force or fraud in the disturbed conditions prevailing before and immediately after the British annexation.² He held that the State had a perfect right to resume their offices, even without compensation.³

On the basis of these considerations, Mackenzie explained the deficiencies of the existing British regulations in the matter of securing the rights of the various classes, particularly rights pertaining to admission of parties to revenue engagements, public sales of land for arrears of revenue, and private sales by recognised proprietors. He provided alternative interpretations of the existing regulations in such a manner as to make the previous laws consistent with the new notion that it was most desirable to protect the property rights of all classes in the village communities.⁴ He thought it necessary for the government to declare that 'in admitting parties to enter into engagements for the public revenue, it does not design to compromise private rights, or to vest the engager with rights not previously possessed by him, excepting in so far as his interest in the estate is improved by the limitation of the public demand or by resignation in his favour of rights formerly vested in government itself, or as it may be found necessary to strengthen his hands for punctual realisation of the public dues'.⁵

To give effect to such a declaration, Mackenzie suggested, the revenue officers should be directed 'to institute a minute local enquiry into the rights and interests of all classes in the actual occupancy of the land, by whatever denomination they may be known',⁶ and to prepare a record of all such rights, for the guidance of the civil courts. He wanted it to be explained to the people as well as to the revenue officers that persons whose tenure vests them only with the right of collecting the government revenue (whether paying any portion of it to the State or not), but not with the right of property in the soil, shall not be entitled to demand more from the occupants of the land than if he were a government officer, and that he shall on no account, without a suit in Court, oust any person

¹ *Ibid.*, para. 395, p. 89; also see para. 634, p. 133; and paras. 745-47, p. 140.

² *Ibid.*, paras. 406-07, p. 91.

³ *Ibid.*, paras. 473-74, p. 101.

⁴ See particularly his construction of the laws regarding sales of land at public auctions for arrears of revenue, showing its consistency with the rights of village zamindars. *Ibid.*, paras. 591-602, pp. 126-28.

⁵ *Ibid.*, para. 732, p. 147.

⁶ *Ibid.*

possessing the right of property.¹ Such restriction, he felt, should apply generally to all landholders irrespective of their relations to cultivators possessing a prescriptive right of occupancy, such as resident ryots.² Similarly, persons engaging for any village or villages of which they were only in part owners, should be restrained in respect of that portion of such village or villages in which they possessed no right of property.³

He suggested that to enforce these principles, the collectors, while revising the settlements, should be made competent to 'correct the errors or omissions of former settlements by admitting to engagements, or entering on the public records, the names of persons found by them in *bona fide* possession of land'.⁴ They were also to be authorised to declare the nature and extent of the interests actually possessed by such occupants in all cases where any dispute might exist about the nature of the tenure of any person in actual possession of land.⁵ When any person complained of having been wrongfully dispossessed, the Collectors were to be made competent to enquire into the matter, and to restore possession on the basis of evidence available about his rights.⁶

Mackenzie also proposed that it was desirable to admit to direct engagements with government 'all persons possessing a hereditary right of property in the soil, that is, the power of disposing of the land by sale, gift and mortgage, and of regulating the appropriation of it, subject only to the payment of the government share of produce, and to temporary or limited rights of occupancy' being conceded to individuals.⁷ He also suggested that with the exception of a few cases where political expediency dictated otherwise, the position of persons like *taluqdars* claiming only a right of collecting the government revenue, as intermediaries between government and the proprietors of the soil (village zemindars), should be discontinued as far as practicable.⁸ Due compensation, however, might be paid in cases where such right was founded on hereditary grants or life-grants, fully authenticated and made or confirmed by the ruling power.⁹ But, in cases where the tenure might have been merely one of service or farm, not secured in perpetuity or for a term of years, by any distinct grant from the British or preceding

¹ *Ibid.*, para. 733, p. 147.

² *Ibid.*, para. 734, p. 148.

³ *Ibid.*, para. 738, p. 148.

⁴ *Ibid.*, para. 744, p. 149.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*, para. 736, p. 148.

⁸ *Ibid.*, para. 739, p. 148.

⁹ *Ibid.*, para. 745, p. 149.

government, or by prescriptive usage, the interposition of the party holding it was to be superseded forthwith.¹

If the government did not deem it proper to adopt this principle, Mackenzie suggested that a *muffassil* settlement should be made, by the collectors, of all village *zamindaris* (estates) included within the *elakas* (jurisdiction) of *taluqdars*, in a manner as if the village zamindars held directly under the government.² The *taluqdar* was to be considered merely as a hereditary *tahsildar*, with such allowance and such rights in regard to the waste lands as government might deem it equitable to assign.³ Further, when a *taluqdar*, removed from the management of the *taluk* due to recusance or default in payment of revenue, claimed a right of property but his claim was disputed by the parties occupying the land who claimed a title of property in it, means were to be adopted whereby proper adjustment could be made for inducing the *taluqdar* to relinquish his claim. Otherwise he could be required to bring a suit in the court to establish his right within a given period.⁴

On the same principle, no *malikanah* was to be granted to such excluded or recusant *taluqdars* where the persons occupying the lands, on the revenue of which the allowance was claimed, might not admit his right of property until the *taluqdars* established such a right in a court of justice.⁵ Such allowance could be assigned for his maintenance in the interim period as might appear equitable, but with the full understanding that the grant of such allowance by the government did not imply any recognition of the right of property in the soil vested in him.⁶

Following the same logic, Mackenzie thought that the rights of auction-purchasers could be traced to the wrong notion that the right of private property in land was vested in the revenue engagers.⁷ He felt that the 'faith of the government has perhaps been virtually pledged through the practice of its officers' to safeguard their rights.⁸ But Mackenzie showed his preference for the principle that the auction purchasers should be regarded as having purchased nothing more than the rights which belonged to the persons for whose default originally the lands had been sold.⁹ He would have preferred that this principle be applied with retrospective effect. Such retrospective application, he maintained, 'would in fact, by the restoration of

¹ *Ibid.*, para. 746, p. 149.

⁴ *Ibid.*, para. 749, p. 149.

⁷ *Ibid.*, para. 571, p. 123.

⁹ *Ibid.*, para. 598, pp. 127-28.

² *Ibid.*, para. 747, p. 149.

⁵ *Ibid.*, para. 750, p. 149.

⁸ *Ibid.*, para. 602, p. 128.

³ *Ibid.*

⁶ *Ibid.*

the village zamindars to the rights of proprietors, strip the auction-purchasers of almost all their acquisitions'.¹ But since this was bound to have very wide repercussions, he wanted a compromise to be made between the rights of the auction-purchasers and those of the village zamindars who occupied the lands under them.² It was possible to allow the old village zamindars to re-purchase their lands, if they wanted to do so, or otherwise to obtain the voluntary relinquishment of their rights by the auction-purchasers.³ In his opinion it was possible to remedy the evil without legislative interference.⁴ He wanted the collectors to have the power of adjusting, if possible, the claims of auction-purchasers prior to the conclusion of a settlement with the village zamindars.⁵

According to his plan, in the *pattidari* villages, with a multitude of village zamindars, the revenue officers were to be specifically vested with the discretion of selecting one or more of the brethren as the *sadar malguzar* (direct engager for payment of revenue), with an eye to past usage, and with due deference to the wishes of the village community. In these villages, the 'means of all the proprietors, however small the portion of the village held by them', were to be recorded in the public records to indicate the proportion of the government revenue and village charges payable by each or the amount legally due to the *sadar malguzars*, viz., the selected representatives.⁶ These latter were to be held solely answerable in the first instance for any default in the payment of the public revenue assessed on the entire village.⁷ Mackenzie further suggested that when a *pattidari* village fell in arrears, an enquiry was to be made and if the default originated with a subordinate sharer in the village, the collector was to recover it from the property of that sharer, by mortgaging it to other sharers in the village or by sale eventually.⁸ The government, however, had to reserve to itself the power of putting up the entire village to sale in the event of general default or refractoriness.⁹

Holt Mackenzie proposed that if the government did not find it expedient to impose any restriction on the admission of every village zamindar to separate engagements directly, the collectors could be authorised and directed to admit, on application, all such parties to direct revenue engagements as were actually in occupation

¹ *Ibid.*, para. 602, p. 128. ² *Ibid.* ³ *Ibid.*, para. 604, p. 129.

⁴ *Ibid.* ⁵ *Ibid.*, para. 571, p. 150. ⁶ *Ibid.*, para. 753, p. 150.

⁷ *Ibid.* ⁸ *Ibid.*, paras. 754-56, p. 150. ⁹ *Ibid.*, para. 755, p. 150.

of any portion, however small, of a village or villages. But he desired that the collectors should be restrained from any proceeding calculated prematurely to disrupt the unity of the village communities.¹

On the whole, Mackenzie wanted the Board to enter on a general revision of the then existing revenue regulations applicable to the Ceded and Conquered Provinces, with a view to better defining the principles of the British system, and securing its closer approximation to the circumstances of the people.²

It will be seen that the measures proposed by Mackenzie had a definite bias against the rights of intermediate proprietors which had been created under the previous British regulations. They revealed a clear anxiety to protect and sustain the rights of actual cultivators, especially of the village zamindars and the resident ryots. He stood for the establishment of a direct relationship between the State and the cultivator as under the Madras system of *ryotwar* settlements. The only difference that he recognised was that it was necessary to prevent the structure of the village community from being undermined by making direct revenue engagements with each of its members at least so long as the village community did not disintegrate in the natural course. He was also evidently anxious to prevent a social revolution involving the total ruin of the intermediary rent-receiving interests in land.³

The principles and measures recommended by Holt Mackenzie indicate that the local conditions of tenures in the Ceded and Conquered Provinces, the nature of organisation of the village communities and their complex constitution had come to be fairly well appreciated during these years. The basic distinction between the two forms of property, viz., property in government revenue and property in land had come to be understood, and the true proprietary unit of land in these provinces, viz., the village community, had been discovered. The nature of tenancy of resident ryots had also been understood clearly. In fact, from the vast mass of data scattered in the voluminous records of the British Government, Mackenzie had tried to reconstruct the principles of the indigenous revenue system and the status of landed property as it had existed at the time of the cession and the conquest, and to analyse how the British revenue administration had modified property rights and property relations specially in the case of proprietary classes.

¹ *Ibid.*, para. 758, p. 150. ² *Ibid.*, para. 760, p. 151.

³ *Ibid.*, paras. 612 and 616, p. 130.

Apart from the fact that local conditions and local tenures coloured the opinions of Mackenzie, he appears to have been definitely against many of the features of the Bengal Permanent Settlement under the influence of the classical political economy, especially the Ricardian version of the theory of rent. Mackenzie had been a student of Malthus at Haileybury.¹ He had the reputation of being 'of retired and studious habits, and gifted with a keen and comprehensive intellect'.² 'His talent in writing, and the ingenuity of his mind, combined with his general knowledge, obtained a great currency to his opinions'. According to a contemporary writer, in his papers, 'there was too great a reliance on the principles of Political Economy'.³ Mackenzie fully grasped the significance of the new theory of rent for India and within four years of its formulation he sought to apply it to the analysis of land revenue policies in India, during his tenure as Secretary to Bengal Government in the Territorial Department from 1817 to 1831.

We have already referred to the prejudice which the theory of rent had created against the declaration of a permanent settlement and the creation and maintenance of a landed aristocracy. We have also seen how powerfully Mill had attacked the theory of the Bengal Permanent Settlement in his *History*. Mackenzie, like many others among his contemporaries, had been deeply influenced by the prejudice against the landed aristocracy and was opposed to leaving the future rental incomes to them. He brought to bear the full weight of his convictions on his proposals for the reform of land and revenue system of the Ceded and Conquered Provinces. On the question of Permanent Settlement, he wrote as follows:

The advantages of the system (of permanent settlement) are not of a nature to call for any hasty adoption of it, and can indeed only be fully secured by the most careful and deliberate course of proceeding. Every day shows that great inconvenience has resulted from the rapidity with which the settlement in Bengal was formed, and though the glaring defects of former systems, which urgently called for remedy, and the inadequacy of the instruments then at the command of government, to apply the

¹ Stokes, *op. cit.*, p. 331.

² J. Thornton, 'The Settlement of the North Western Provinces', cited in Stokes, *op. cit.*, p. 94.

³ Malcolm, "Secret and Confidential Memorandum for Lord William Bentinck", 24 Jan., 1824, cited in Stokes, *op. cit.*, p. 94 fn.

proper remedy of a detailed correction of abuse, may have rendered expedient the comprehensive measures then adopted; yet no sufficient reasons appear to me to suggest a similar course in the Western Provinces. There is little doubt that long leases would secure many of the advantages contemplated as likely to arise from the permanent settlement, and the example of Bengal does not encourage the expectation that much public service can be drawn from the class in whose favor government will thus relinquish its right to an increasing rent.¹

On the fallacy that agricultural improvements could be promoted by creating a class of large landed proprietors in Bengal, he said:

I see little or no chance of the great zemindars (or hereditary collectors) ever becoming capable of taking part in any regular or good system of internal government; and it is an instructive fact to notice that, of the chief zemindars of Bengal, for whom the permanent settlement was designed to secure advantages so extensive and who were looked to as the natural aristocracy of the country, the Rajah of Burdwan is almost the only one who has preserved his possessions; and he has saved himself by a system which, vesting an almost absolute property in a middle class, has left to him little power to exercise the influence or perform the duties of a zemindar. He is, in fact, merely, a great stipendiary, and in the present moral and intellectual condition of this country, it cannot be difficult to estimate the value of the purposes to which his wealth is devoted.²

He further added,

The existence of such a class is not, I think, politically advantageous to the interests of government; and those of the agricultural community will best be consulted by their entire exclusion in favor of the village community... It is to the substance of the cultivator that we must look for an improved husbandry here; and dangerous would be the experiment of sacrificing them, in the hope that their place will be supplied by wealthy capitalists; still more if they are left at the mercy of indolent or rapacious assignees of government.³

¹ Memorandum, 1 July, 1819, *Revenue Selections (1818-1820)*, p. 59 fn.

² *Ibid.*, para. 329, p. 77, fn. ³ *Ibid.*, para. 636, p. 133 fn.

The influence of the Ricardian theory of agricultural improvement is evident in these passages. His advocacy for the interests of the immediate cultivators of the soil derived from the theory of rent and its direct corollary the theory of taxation. Like James Mill, he believed that even if the entire rent were taxed away, the cultivators' ability to effect improvements in agriculture would not be affected. Consequently, he came to the conclusion that permanent settlement of land revenue was a wrong policy. As he says,

In the argument for permanent, or very long settlements, perhaps too much stress has been laid on the notion that much capital will be laid out by the zemindars. But excepting, perhaps, in the sinking of wells, the improvements of Indian agriculture are not, generally speaking, affected by that course. It ought to be observed, too, that in our own country the most important of the improvements have been made by farmers holding limited leases, with which all their interest in the soil ceases. If, indeed, a land tax be levied only on the *net profit* derived from the land (I mean the profit remaining after the payment of labour and all other charges with the profits of stock calculated according to the local rate of interest), *it may be doubted whether it has any direct tendency to prevent improvements*; it will, however, check the enterprise that is excited by the hope of extraordinary gains, and it must always be a very difficult thing for the Revenue Officer (especially where the proprietor is also the cultivator of the soil) to avoid trenching with a high assessment on the necessary profits of stock and wages of labour.

In other respects, rent properly so called, might perhaps be wholly absorbed by taxation without checking the progress of cultivation. The moral and political advantages derived from the existence of *rent holders* is a separate question.¹

On the basis of the theory of rent, Mackenzie reached the same theory of the nature of the State's right in India as had been reached by Mill, viz., that the State in India, since ancient times and by custom, was entitled to claim the entire rent of the country as its revenue. Thus he said,

Our predecessors, indeed, whether Mussulman, or Mahratta

¹ *Ibid.*, para. 369, p. 85 fn.

Governments, do not seem to have admitted as a principle any other general limit to the government demand than the amount which the cultivators can afford to pay, the established *hakimee hissah* or government share appearing generally to exceed this limit; to leave a *rent*, therefore, to the proprietor of the soil, unless the dubious allowance of *malikanah* be considered such, was no part of the revenue constitution of this part of India, theoretically considered.¹

He added,

... the system of the Mogul government and that prescribed by the Mahomedan Law seem to recognize only two persons as having a fixed interest in the soil, viz., the sovereign and the cultivator (the *ruboolarz-oo-malik*), and to leave to the latter little more than the bare profit of the capital and labour bestowed on the land (the surplus, which would constitute rent, being absorbed by the revenue).²

Mackenzie was quick to perceive that if this notion of government demand inherited from the native governments was to be made the basis of policy, government would suffer a large sacrifice of revenue by fixing in perpetuity the land revenue demand in an area like the Ceded and Conquered Provinces in which there was a large proportion of 'cultivable land' as well as vast areas recorded as 'waste land'. He explained that much of the land was called waste because 'under present circumstances, it cannot be rendered profitably productive'. But he believed that with improved skill or increased capital, there would be considerable expansion of cultivation and improvement of agricultural productivity.³ He was, therefore, inclined to the view that the British Government should fully keep in mind the full value of what it would be giving up to the landed proprietors by declaring a permanent settlement.⁴

He actually would have liked the British Government to appropriate the whole of this rent—current and potential—by way of taxation. But since he recognised the fact that 'a deference for caste and for long-existing institutions or long-established usage' had 'introduced considerable variety in the rates of the Government rent, beyond what the mere situation and circumstances of the land and the

¹ *Ibid.*, para. 317, p. 75.

² *Ibid.*, para. 348, p. 80.

³ *Ibid.*, para. 232 fn., pp. 61-62.

⁴ *Ibid.*

quality, quantity or value of its produce would account for',¹ he thought that full investigation was first necessary into all the circumstances that influenced the rent or rates of rent from the fields occupied by individual cultivators. In his anxiety to safeguard private rights and to maintain the unity of village communities he said that 'the adequacy or inadequacy of a *jumma* cannot be determined without some enquiry into the tenures, the rights and privileges of the community'.² Therefore, he recommended that in the new plan for revenue settlements suggested by him, 'there be united, with the revision of the assessment, and the investigation of the extent and produce of the lands, the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests and privileges of the various classes of the agricultural community, with such other matters as may appear necessary fully to satisfy the enquiries of the Honourable Court'.³

(iii) *Adoption of the New Principles*

The principles suggested by Holt Mackenzie in bare outline and 'in so imperfect and so ill-digested a form' were further developed in the two resolutions of the Bengal Government dated 22 December, 1820,⁴ and 1 August, 1822.⁵ Before these documents were compiled, however, there was a sharp conflict of opinion amongst the members of the Bengal Government on the question of whether it was at all necessary to delay the declaration of a permanent settlement until the proposed investigations were completed.⁶ But Lord Hastings, the then Governor-General, actively supported the new principles formulated by Mackenzie and went ahead with their application to the coming revenue settlements.⁷ These documents, together with the Minutes of members opposed to the new proposals, were forwarded to the Home authorities,⁸ who generally approved of the new plan of revenue settlements and promised to furnish further

¹ *Ibid.*, para. 318, p. 76.

² *Ibid.*, para. 254, p. 65.

³ *Ibid.*, para. 686, p. 141.

⁴ *East India Selections*, Vol. III, pp. 229-68.

⁵ *Revenue Selections (1822-1833)*, pp. 1-84.

⁶ See for instance, Minute by Dowdeswell, 7 Oct., 1819, and Minute by E. Colebrooke, 17 March, 1820, in *East India Selections*, Vol. III, pp. 152-53 and pp. 165-167 respectively.

⁷ Minute by the Governor-General, 31 Dec., 1819, in *Revenue Selections (1818-1820)*, p. 193-95.

⁸ Revenue Letter from Bengal, 16 Sept., 1820, and enclosures in *East India Selections*, Vol. III, pp. 141-69.

instructions after serious consideration.¹ The Bengal Government, in the meanwhile, formulated its resolution of 22 December, 1820, with a view to declaring the 'general principles' on which the further settlements of land revenue in the Ceded and Conquered Provinces were to be made and 'explanatory of the views and intentions of Government' on several most important points connected with their revenue administration.

However, the views of the Home authorities on many of the questions, left over to be settled by them in a future despatch, were not received in time while the existing settlements were due to expire in September, 1822 in the Ceded Provinces.² Hence, the Bengal Government formulated another Resolution on 1 August 1822, and enacted Regulation VII of 1822, leaving the unsettled questions open for further discussion.

Our main object will be to examine, in this section, the theory underlying the new principles expounded in the two Resolutions and the Regulation.

NATURE AND EXTENT OF THE RIGHTS OF THE STATE

In their new resolutions, the Bengal Government formulated a precise view of the nature and extent of the rights which legitimately belonged to the State. It accepted *in toto* Holt Mackenzie's opinion on the nature of the government's land revenue demand under native governments, viz., that in India the State was empowered to take away by means of taxation the entire net rent of the country.³ Thus, it maintained in the Resolution of 1 August, 1822, that in India, under the native governments, there was generally no recognised rule for determining the demands of the government on ryots⁴ and the 'extent of share assigned to Government' was 'such as would absorb the net rental of the country'.⁵ The British Government, thus, regarded itself as having inherited the same right and

¹ *East India Selections*, Vol. III, pp. 141-69.

² Resolution, 1 Aug. 1822, para. 2, *Revenue Selections (1822-1833)*, p. 1.

³ The Resolution of 22 Dec., 1820, declared: 'The rules by which the conduct of former Governments of this part of India were regulated, where any fixed principle or rule can be traced, would appear, indeed, to have justified such a demand on the part of the Revenue Officers, as would rarely have left a rent, properly so called, to be enjoyed by any individual or class of individuals . . . with exception of course . . . to the cases in which the government rent was assigned . . . by special grant.' para. 12, *East India Selections*, Vol. III, p. 231.

⁴ Resolution, 1 Aug., 1822, paras. 89-90. *Revenue Selections (1822-1833)*, p. 24.

⁵ *Ibid.*, para. 91, *Revenue Selections (1822-1833)*, p. 24.

empowered to collect the entire rent of the land, viz., the 'surplus of agricultural produce left after payment of the wages of labour and the profits of stock'.¹ The government in short was now considered as the 'great rent-owner'.²

This theory, derived from the application of the British classical rent theory to the Indian land revenue system, embodied a highly authoritarian view of State rights.³ It implied that the State was fully entitled to determine the magnitude of economic rent, the classes for whom and the purposes for which the whole or a portion of this net rent could be relinquished as well as the manner of its distribution amongst them.⁴ With this view of their own rights, it was not difficult for the British authorities to modify the relative rights and privileges of the various classes connected with land according to their changed theoretical predilections and their economic and political interests. Even at the time of the Bengal Permanent Settlement, the State regarded itself as empowered to dispose of its own rights in any manner it liked. But its right to take away the entire net rental of the country was neither so clearly formulated nor sought to be applied in practice.

METHODS OF ASSESSMENT OF LAND REVENUE

In accordance with the new principle, the methods of assessing the government revenue from land were also to be based on the new theory of rent. It was now recognised that 'hitherto, the demand of (the British) Government seems to have been regulated by no clear or determinate rule'.⁵ It was now declared that the revenue officers, for assessing the amount of government demand on land, should determine the net rent of every piece of land with reference to its actual 'produce and capabilities'.⁶ For this purpose, it was necessary to enquire fully into the 'extent of productiveness of the land, including

¹ Revenue letter from Bengal, 28 Dec. 1821, para. 28 in *East India Selections* Vol. III, p. 287; also see Holt Mackenzie's Memorandum, 1st July, 1819, para. 369 fn., *Revenue Selections (1818-1820)*, p. 85; also see Stokes, *op. cit.*, pp. 95 and 110.

² See Holt Mackenzie's letter to the Select Committee on the Affairs of East India Company (1832), *Report* Vol. III-Revenue, p. 298.

³ Stokes, *op. cit.*, pp. 95 and 110.

⁴ It need hardly be said that it was also quite consistent with the theory and practice of the preceding rulers in India who had exercised despotic powers over their subjects.

⁵ Resolution, 1 Aug. 1822, para. 84, *Revenue Selections (1822-1833)*, p. 22.

⁶ Regulation VII, 1822, Section VII, Clause Second, *East India Selections*, Vol. III, p. 373.

in the term all circumstances, natural or artificial, that affect its power of yielding rent, or a surplus beyond what is required for the wages of labour and the replacement and use of stock'.¹ Consequently, the revenue officers, while revising revenue settlements, were required to ascertain the total extent of land in a *mahal* (revenue unit), the proportion of it which was cultivated or uncultivated, the extent of land which was absolutely waste but capable of cultivation,² the qualities of different soils, their productive powers,³ the nature and value of the crops grown on them and their respective costs of cultivation, and thus to arrive at the rent-yielding capacity of different soils.⁴ The data for the average gross produce and the average net produce of a *mahal*, as well as the average prices of produce prevalent in the locality were also required to be collected for this purpose.⁵

In *mahals* where the land, stated to be absolutely waste, was particularly extensive, revenue officers were to explain the reason why so much land was merely wasteland and examine the prospect of promoting cultivation on such land through the execution of public works. The probable circumstances which would make it profitable for the zamindars to cultivate such land had to be explained, and the revenue officers were to suggest how much of it should be kept as the property of the zamindars and how much should be reserved as government property.⁶ 'The natural tendency of national improvement to render profitable lands requiring the more expensive processes for their cultivation', and the effects of a 'better system of agriculture' on the public resources and 'its possible influence on the direction of agricultural industry and capital were to be maturely weighed' in the making of revenue settlement.⁷

The reports to be furnished by the Collectors for the information of the government or the authorities at Home, were also expected to contain information in regard to the situation of the land with reference especially to *nullahs* (water-courses) or wells, the facility or otherwise of applying artificial irrigation, and the liability of the

¹ Holt Mackenzie's Letter to the Select Committee on the Affairs of East India Company, 1832, *Report*, Vol. III, p. 298.

² Resolution, 22nd Dec. 1820, para. 15, *East India Selections*, Vol. III, p. 232.

³ *Ibid.*, para. 40, p. 235.

⁴ Resolution, 1 Aug., 1822, para. 20, *Revenue Selections (1822-1833)*, pp. 5-6; also see Baden-Powell, *op. cit.*, Vol. II, pp. 25-26 fn.

⁵ Holt Mackenzie's Memorandum, 1 July, 1819, para. 687, *Revenue Selections (1818-1820)*, p. 141.

⁶ Resolution, 22 Dec., 1820, paras. 35-37, *Revenue Selections (1822-1833)*, p. 234.

⁷ *Ibid.*

crops to failure due to natural calamity or other causes.¹ The extent to which hired labourers might be employed at the usual wages was also a matter which the government and authorities at home desired to be explained.² The dependence of the cultivators on the support of *mahajans* (moneylenders-cum-traders), the ordinary rate of interest on capital, the expenses and profits in respect of raising alternative crops, the general state of trade and the markets on which the agricultural community depended for the sale of their produce, and the facilities available for converting the farmer's net income into cash for meeting the government demand, were also to form a subject of enquiry and report.³

The collectors were thus required to take into account all the diverse factors which could affect the amount of rent, at the time of making the revenue settlement or in future, for determining the amount of assessment and to notice them 'in the form of marginal notes to the settlement accounts of the villages, in so far as they may influence the government demand'.⁴

CAUTION IN ACTUAL ASSESSMENT OF GOVERNMENT DEMAND

However, as regards the actual revenue assessment, it was to be fixed with reference chiefly to past collections⁵ and with due regard to the actual rules and rates of rent prevalent in individual villages and to local customs. 'The numbers, castes, characters, habits, situations and institutions of the people' were to be carefully considered along with the nature and productiveness of the land and the facilities of disposing of the produce.⁶

This practice was regarded necessary because if the assessment was determined merely on the basis of estimated net rentals, there was great danger of over-assessment. Thus, the Resolution of 1 August, 1822, clearly says:

... especial caution is necessary to guard against an excessive demand; for there must always be great danger lest, while we imagine that we take only a share of the net rent, we in fact encroach on the fair wages of labour and profits of stock, or

¹ Resolution, 22 Dec., 1820, para. 45, *East India Selections*, Vol. III, p. 235.

² *Ibid.*, para. 46, p. 236.

³ *Ibid.*, para. 48, p. 236.

⁴ *Ibid.*, para. 48, p. 236.

⁵ *Ibid.*, para. 50, p. 236.

⁶ Resolution, 1 Aug., 1822, para. 98, *Revenue Selections (1822-1833)*, pp. 25-26.

even compel the cultivators to sacrifice the means of maintaining the actual cultivation in order to discharge the Government jumma.¹

It was in fact declared by the government that 'in all cases, the agriculturist should enjoy a *liberal* return for his labour and capital'.² Therefore, with a view to avoiding the risk of over-assessment, 'moderation of demand' was declared to be the 'leading principle' of revision of settlements.³ The collectors were instructed 'not to allow the discoveries to which a minute enquiry may lead to induce a hasty and largely enhanced demand beyond the scale of past collections'.⁴ The following passage makes the principle underlying a cautious policy of assessment more explicit :

... when the collector has before him the extent and produce of each field, he is very apt to form an exaggerated estimate of the revenue to be drawn from the country, seldom making sufficient allowance for the accidents that disappoint the hopes of the husbandman or those that limit the collections of the zemindar; calculating the payments of the ryots by the utmost amount which the malguzar is entitled to demand, without sufficient advertence to the abatements ordinarily allowed from the gross jumma bundy; assuming, generally, too high an average produce, and a price fixed rather by the well-regulated commerce of the wealthy Mahajun than the hurried sales of the needy ryot; forgetting that the plentiful year may glut the market, while in the year of scarcity the consumption of the ryot and his cattle may leave him little on which to obtain an enhanced value; and further, overlooking the fact, that a poor and improvident people can scarcely be expected to accumulate in favourable times the means of meeting seasons of calamity.⁵

For political reasons as well, moderation of land revenue demand was considered expedient, as the following extract shows :

The Honourable Court do not in any degree appear to require that

¹ Resolution, 1 Aug., 1822, para. 101, *Ibid.*, p. 26.

² *Ibid.*, para. 102, p. 26.

³ Resolution, 1st Aug., 1822, paras. 35 and 81, *Ibid.*, pp. 10 and 21.

⁴ *Ibid.*, para. 72, p. 19.

⁵ Resolution, 22 Dec., 1820, para. 51, *East India Selections*, Vol. III, p. 237.

the exaction of an increased rent should necessarily follow from the reservation of the power to make such a demand. On the contrary, the Honourable Court have constantly urged the propriety of moderation in assessment, and of a careful attention to the circumstances of the individual classes affected by our revenue operations. Even where the means of raising the revenue are most abundant, where the strict right of government to demand an increase is undoubted, and where the ultimate enforcement of such a demand may be of clear expediency, they have urged the necessity of avoiding any sudden enhancement. The existing appropriation by individuals or classes of the net rent of the country may be abusive and useless, but it may not be the less inconsistent with humanity and policy for the government to destroy by a sudden resumption of its rights, institutions and habits which have grown out of the relinquishment of them.¹

EXTENT OF GOVERNMENT DEMAND

Although, in theory, the government was regarded as entitled to tax away the entire 'net rent' of the country, the exact share, in practice, was fixed at 80 per cent only. The remainder of 20 per cent. was an allowance to cover the costs of management and risks of collection borne by those who were responsible for the collection and payment of revenue to the government.²

RATES OF RENT IN KIND AND MONEY-RENTS

An important question that arose was whether by fixing the government revenue as a specific share of the gross produce the government could simplify the task of fixing the assessment. The decision, however, was against fixing the rates of rent in kind, and the reasons were formulated in terms of the Ricardian theory, as the following passage shows:

It might of course greatly simplify the arrangement if . . . the assessment were fixed at a certain specific share of the estimated produce. His Lordship in Council, however, apprehends that no

¹ Resolution, 1 Aug., 1822, para. 73, *Revenue Selections (1822-1833)*, p. 19.

² Clause Second, Section VII, Regulation VII, 1822, in *East India Selections*, Vol. III, p. 373; also see Stokes, *op. cit.*, p. 114.

such rule could generally be applied. In an early stage of society, or in limited tracts where the soil and other circumstances may be found to be nearly uniform, a certain share of the produce may perhaps be demanded as an equivalent for the use of lands of which the productive power will not materially vary; but in more advanced stages, and in extensive provinces embracing many varieties of soil and situation, *there must necessarily be much land cultivated of which the whole crop does little more than repay the labour of the husbandman, (marginal land according to the Ricardian theory of rent) and much that affords a large surplus after meeting the wages of labour and the charge for capital employed in its tillage* (Italics ours). Nothing, consequently, could be a less equitable scheme than to fix the government tax by one universal rate of partition of the gross produce.¹

Fixation of government revenue as a share of gross produce was ruled out because the incidence of land revenue on the different varieties of soil with widely varying productive powers would be unequal. In some areas, the land revenue, if fixed as a specific share of gross produce, would eat into the wages of labour and the necessary profits of capital, while in other areas, it would be only a small fraction of the rental surplus. Therefore, the decision was as follows:

Of various mehals (however various their circumstances) we may, of course, strike the average, and assume that, *one estate with another*, the net rent amounts to one-third or one-fourth of the produce. We may thus establish a general rate or rates according to which the amount to be required from an officer or malgoozar charged with the collections of an extensive pergunnah shall be regulated and their accounts checked. But such rates cannot generally be applied to individual villages, still less to individual fields, further than as one means of determining their aggregate produce. It seems therefore essentially necessary to enter on the task of fixing, in detail, the rates of rent and modes of payment current in each mouzah and applicable to each field; and anything short of this must be regarded as a very imperfect settlement.²

¹ Resolution, 1 Aug., 1822, para. 122, in *Revenue Selections (1822-1833)*, p. 32; also see Governor General's Minute, 26 Sept., 1832, para. 8, *Ibid.*, pp. 386-87.

² *Ibid.*, para. 128, p. 32.

The Ricardian theory of the differential fertility of the soils determining their rent-yielding capacity supplied the principle on the basis of which the government decided against the imposition of uniform rates of rent in kind. For a similar reason, in 1832, Lord William Bentinck also abandoned the idea of fixing rates of rent in kind, as we shall explain in a subsequent chapter.

It was again the same reason which persuaded the government to convert all rents computed by division of produce into money rents. It was said that the 'improvement of the country will be essentially retarded by the prevalence of a system of division (of gross produce) which must necessarily operate to prevent the extended cultivation of most valuable and most expensive productions'.¹

(iv) *New Approach Towards Agrarian Relations*

Apart from defining the nature and extent of government demand on the lines of the Ricardian theory of rent, the new point of view also meant a basic shift of policy as regards safeguarding the relative rights of the various classes in the agricultural community. The earlier view of the problem of agricultural improvement and of the classes best calculated to promote it was radically altered.

RECOGNITION OF PROPRIETORS AND PROPRIETARY RIGHTS

We have already examined the deficiencies of the early British regulations in the matter of recognition of proprietors and of proprietary rights. These deficiencies were comprehensively analysed by Holt Mackenzie in his Minute dated 1 July, 1819. He argued that the principles underlying these early regulations were not only wrong but also had disastrous consequences for the rights of the under-tenures and under-tenants of the revenue-engagers. He said that 'the tendency of our revenue system has been . . . to pay rather too little respect to the various tenures and other circumstances attaching to the village communities, which must (if private rights be held sacred) limit the government demand'.² Mackenzie showed that the real proprietors of land were the village zamindars³ who alone should have been recognised for direct engagements according to the

¹ *Ibid.*, para. 294, p. 67; also see Governor General's Minute, 26 Sept., 1832, para. 8, *Ibid.*, p. 387.

² Memorandum, 1 July, 1819, para. 316, *Revenue Selections (1818-1820)*, p. 75.

³ *Ibid.*, paras. 399-401, pp. 89-90.

British regulations and not the *sadar malguzars* who had been presumed to have been vested with 'the absolute right of property in the soil'.¹ He pointed out the co-existence of two distinct forms of property, viz., property in the State revenue and property in the soil. The former was vested in the classes who were responsible for the collection and payment of revenue to the State, (from the village headmen upwards to the *Pergunnah* zamindars, *taluqdars* and *rajas*). The latter was vested in the village communities, the village zamindars and the resident ryots. On this basis, he contended that the persons recognised as proprietors in the early regulations were not the real proprietors of the soil but merely those who possessed a heritable or transferable property in the portion of the State revenue left to be enjoyed by them.²

Holt Mackenzie gave an alternative interpretation of the early regulations relating to the Ceded and Conquered Provinces,³ and advanced the view that 'by the settlement, government restricts its own claims to revenue, and may fairly be assumed to relinquish all claims to property in the soil beyond the revenue, but it is quite at variance with the intentions of government, on the principles of the regulations, *properly understood*, to suppose, that it has in any case designed to compromise private rights, however inadequate the means of securing them'.⁴

In conformity with his Ricardian notions about the nature of government assessment, and on the basis of his clear appreciation of the nature of rights and property so long enjoyed by the members of village communities, Mackenzie suggested that 'actual occupancy of land with proprietary title should guide the revenue officers'⁵ in admitting persons to revenue engagements. All persons possessing a hereditary right of property in the soil, viz., 'the power of disposing of the land by sale, gift and mortgage' and of regulating the appropriation of it, were to be recognised as proprietors and admitted to direct engagements for payment of revenue. All others possessing only a heritable and transferable property in the perquisites of their office or management were to be clearly distinguished and recognised not as proprietors but only as rent-holders not possessing any right

¹ *Ibid.*, paras. 349 fn. and 566, pp. 80 and 122; also see paras. 577-80., pp. 124-25.

² Stokes, *op. cit.*, p. 111.

³ Memorandum, 1 July, 1819, paras. 349 fn., 566-83, *Revenue Selections (1818-1820)*, pp. 122-125.

⁴ *Ibid.*, para. 349 fn., p. 80; also see para. 732, p. 147.

⁵ *Ibid.*, para. 737, p. 148.

of property in the soil. Since this had not been done so far, he suggested that the revenue officers be directed to institute 'a minute local enquiry into the rights and interests of all classes in the actual occupancy of land, proceeding deliberately, pergunnah by pergunnah, the operations of the revenue officer bearing in fact the character of a judicial investigation'.¹

Regarding the benefits of a perpetual limitation of government assessment, Mackenzie recommended that they should be given up only in favour of the persons who were the real proprietors of the soil and were entitled to those benefits, and not to others.

The Bengal Government fully accepted the suggestions of Mackenzie, which were also approved by the Home authorities, in the form of Resolutions dated 22 December, 1820, and 1 August, 1822. In fact, both the resolutions bear a strong resemblance to Mackenzie's own Minute. They incorporated most of his ideas which were expressed almost in his own words, and appear to have been drafted by Holt Mackenzie himself. These two Resolutions may now be analysed in greater detail.

CHANGE IN THE RIGHTS OF PROPRIETORS RECOGNISED IN EARLIER SETTLEMENTS

In the Resolution of 22 December, 1820, it was frankly admitted that 'in their past proceedings, the public officers . . . have been frequently misled by notions of landed property derived from our own country'² and 'very injurious consequences . . . have followed from a system of management, under which all persons coming under engagements with Government, and entered in the Government books as proprietors, have often been confounded as if belonging to one class, and have frequently been considered as the absolute proprietors of the lands comprised in the mehals for which they had engaged'.³ The government now declared that 'there is nothing in the code, *when carefully considered* . . . to justify the notion which appears to have very generally prevailed, that it was the design and scope of the Regulations to render the Sadar Malguzar the absolute proprietor of the land, for the revenue of which he may have

¹ *Ibid.*, para. 732, p. 147.

² Resolution, 22 Dec., 1820, para. 71, *East India Selections*, Vol. III, pp. 239-40.

³ *Ibid.*, para. 89, p. 242; also see paras. 135-37, p. 249.

engaged'.¹ In fact, His Lordship in Council (Lord Hastings) now declared himself to be 'at a loss to conceive whence the opinion that the party admitted to engage for the Government Revenue acquired thereby any new rights of property adverse to those possessed by other individuals, can have so generally arisen'.²

It would be evident that this new declaration ran counter to the whole spirit of the Bengal Regulations, the principal object of which was to establish a landed aristocracy of the Western type. The widespread notion that the government vested a revenue engager with an absolute right of property in the soil for the revenue of which he engaged can be traced to the Bengal regulations. It was now decided to recognise, admit and protect the property rights of the members of village communities, who had been excluded from the revenue engagements in the early settlements. Advantage was, therefore, taken of the technical loopholes in the laws which had not specifically declared, as in Bengal, that the government had intended to make the revenue engagers as absolute proprietors of the soil. It was now declared that 'the property of the zamindars in the mehals for which they engaged must be held subject to all private rights existing at the time of the settlement, and further subject to such rules as the Government shall deem necessary for the good of the great body of the agricultural community'.³

However, in order to establish the 'new point of view', but at the same time to make it appear consistent with what had already been declared in law, it was necessary to redefine and reinterpret the intention and object of the Bengal Regulations. This was done in the Resolution of 1 August, 1822 in the following words:

The whole foundation of our Bengal revenue Code resting on the

¹ Resolution, 22 Dec., 1820, paras. 143-48, *East India Selections*, Vol. III, p. 250-51.

The ground for this denial had already been prepared by Holt Mackenzie who had provided an ingenious reinterpretation of the early British regulations in the Ceded and Conquered Provinces. On this point, he had written as follows in his Memorandum, 1 July, 1819: 'The regulations of Bengal certainly presume the property of the soil . . . to vest with the engaging malgoosar (not being a farmer) . . . It is not, however, *perhaps* correct to say that the regulations of the Western Provinces follow the same principle . . . It seems . . . essentially necessary to take an early opportunity of correcting the notion which is, I fear, too prevalent both among revenue and judicial officers, and has certainly been adopted by the Honourable Court that, by settlement, Government vests an absolute right of property in the engaging zemindar.' Memorandum 1 July, 1819, *Revenue Selections (1818-1820)*, p. 80.

² Resolution, 22 Dec., 1820, para. 149, *East India Selections*, Vol. III, p. 251.

³ Resolution, 1 Aug. 1822, para. 166, *Revenue Selections (1822-1833)*, p. 40.

recognition of private property in the soil, and the relinquishment by Government of any right in land occupied by individuals beyond that of assessing and collecting the public revenue, *it may be assumed that the sudder malgoozar if admitted to engage as proprietor, was intended to be vested, subject to the payment of the Government revenue, with the absolute property of all land in which no other individual possessed a fixed interest*, (Italics ours) and which may have been held and managed by such malgoozar, his representatives or assignees. Lands occupied by contract cultivators, accounting for their rents immediately to the sudder malgoozar, were thus to be regarded as the full property of such malgoozar subject to the stipulations of the contract.

It was also doubtless intended to recognize the full property of the zemindars in *unclaimed waste land* (Italics ours) lying within the limits of their mehals.

Further, it was certainly designed to recognize in the zemindars and talookdars an hereditary and transferable interest in all the legal profits attached to the zemindaree or talookdaree and to relinquish on the part of the government all claim to divest them of their property

Beyond this, the Governor General in Council does not conceive that the admission to engagements can be taken to have pledged Government in favour of the engaging party . . .¹

Thus, the persons who had been admitted under the former regulations as proprietors, instead of being regarded as proprietors of the soil by virtue of such recognition, were now to be regarded merely as proprietors of a heritable and transferable right in the perquisites of management. They could claim property in only those lands in which no other individual had a fixed or permanent interest, or in wasteland which was not claimed by any one else. They were also not entitled to demand more from the occupants of the soil than the revenue levied by the State nor to eject any person possessing

¹ Resolution, 1 Aug., 1822, paras. 161-64, *Revenue Selections (1822-1833)*, p. 39; also see Resolution, 22 Dec., 1822, paras. 79-80, which declared as follows:

'The estate or interest . . . possessed by . . . a malguzar consists, during the continuance of the under-tenant's tenure, *rather in the profit derivable from the rent after discharging the stipulated revenue of government, than in the property of the soil*. . . . He ought, consequently, to be recognised rather as a rent-holder than as a Malik or proprietor of the land occupied by under-tenants.' *East India Selections*, Vol. III, pp. 240-41.

a right of property in the soil or a fixed and permanent interest therein.

On the same principle, the regulations regarding public sales for arrears of revenue were also reinterpreted. It was now held that 'there is nothing in the Regulations to justify the opinion that a public sale operates to annul the rights of any person having a hereditary property in the land or in the rents of it, not being party to the engagement on which the default occurred; or to vest the purchasers with rights not recognised as belonging to the original engager.'¹ Surprise was expressed as to why 'public sales should have been understood to convey a different property'.²

Although Section V, Regulation XLVII 1803³ had expressly provided for the annulment of all engagements and tenures of the under-farmers, under-renters or under-tenants *vis-a-vis* the auction purchasers from the date of sale, yet His Lordship in Council now proclaimed that he 'can never allow any alleged misapprehension on the part of the purchasers or the revenue officers to constitute a sufficient ground for sacrificing the rights of third parties, whatever claims the purchasers may be able to establish to compensation for damage sustained'.⁴ On the same basis, the transactions of private sales by former acknowledged proprietors were also to be limited in respect of rights conveyed to the purchasers.⁵

VARIETY OF TENURES AND TWO DISTINCT FORMS OF PROPERTY VIZ., PROPERTY IN GOVERNMENT REVENUE AND PROPERTY IN THE SOIL

Having corrected (rather amended) the notion that the admission of a person under the former regulations as proprietor no longer implied vesting in him an absolute property to the soil, the government now explained to the revenue officers that 'the persons who have been admitted to enter into engagements for the payment of Government revenue, though ordinarily denominated in the Regulations (as) zemindars, talookdars, and other proprietors of

¹ Resolution, 1 Aug., 1822, para. 167, *Revenue Selections* (1822-1833), p.40; also see Resolution, 22 Dec., 1820, paras. 205-48, *East India Selections*, Vol. III, pp. 259-65.

² Resolution, 1 Aug., 1822, para. 168, *Revenue Selections* (1822-1833), p. 40.

³ *Bengal Regulations*, Vol. I, p. 705.

⁴ Resolution, 1 Aug., 1822, para. 168, *Revenue Selections* (1822-1833), pp. 40-41.

⁵ Resolution, 22 Dec., 1820, para. 135-48, *East India Selections*, Vol. III, pp. 249-51.

land, belong to various classes possessing very different rights and interests'.¹ In some cases, the *sadar malguzar* was entitled to enjoy a full heritable and transferable property in the whole or a part of the lands for which he had engaged, subject only to the payment of government revenue and such contracts as he may have himself entered into, with the power either of cultivating it himself by means of his dependents or hired labourers or of leasing it to others in any manner he might judge expedient.² The *malguzar* in such cases was obviously the real proprietor of the soil. But in other cases, where there was a class of occupants enjoying a permanent, heritable and sometimes transferable, right of occupancy, subject only to the payment of a fixed rent, the interests of the *malguzars* consisted 'rather in the profit derivable from the rent (State revenue) after discharging the stipulated revenue of government than in the property of the soil'.³ Consequently, he was merely a rent-holder rather than a *malik* or proprietor.⁴ In some other cases, the *sadar malguzars* possessed merely the right to collect the share of produce due to the government, the whole of the land under them being occupied by persons enjoying full, heritable and transferable property in the soil subject to the payment of the government share of produce through the *sadar malguzar*.⁵ In such cases, the *malguzar's* profits consisted merely of the difference between what they could levy as revenue and the rent which they paid to the government in perpetuity or for a term. In such cases, the *sadar malguzar* was a mere representative or officer of the government. In other cases, the *sadar malguzar* was the proprietor of the soil of only a portion of the land for the revenue of which he had engaged, while for the remaining portion of the estate, he was only the representative of a community to which he himself belonged and collected the government revenue from his other co-parceners in the community only as a manager for which he received some perquisites.⁶ Stress was laid on the greater variety of status found amongst this class of *sadar malguzars*, depending on the complexity and variety of village organisation in the different parts of the country.⁷

In this context, before any code of laws could be promulgated for an efficient civil and judicial administration, the most indispensable

¹ Resolution, 22 Dec., 1820, para. 74, *East India Selections*, Vol. III, p. 240.

² *Ibid.*, para. 75, p. 240.

³ *Ibid.*, paras. 77-79, p. 240.

⁴ *Ibid.*, para. 80, p. 241.

⁵ *Ibid.*, para. 81, p. 241.

⁶ *Ibid.*, para. 84, p. 241.

⁷ *Ibid.*, paras 84-85, p. 241.

step was to ascertain and record the rights of all individuals after 'a minute investigation of the rights, interests and privileges of all classes of the community connected with the land and a careful discrimination of the real nature and extent of the interest possessed by each person as actually enjoyed by him before their recognition in land'. Such investigation was specially required in cases of persons under engagement as 'Rajas, Zemindars, or Talookdars' holding entire *parganahs* and extensive tracts, and having under them village zamindars possessing a hereditary and transferable right of property in the soil,¹ since in such cases the inferior tenantry were exposed to much greater danger of oppression than in others.

In view of the amazing variety of tenures discussed in the two Resolutions, stress was laid on the fact that while some classes possessed by long usage a heritable and transferable property in the soil, others possessed the right of property merely in that portion of the State revenue which was allowed by the State, as their perquisites of management and as a compensation for risks of collection or allowed by deliberate design for reasons of political expediency.

According to the new principle that the State was the great rent-owner, the State naturally found justification for abolishing all property rights to a portion of the State revenue except where expediency or political necessity indicated a different policy.

NEW BASIS OF ADMISSION OF PERSONS TO DIRECT ENGAGEMENTS FOR REVENUE

On the basis of investigation, it was felt that direct engagements for collection and payment of revenue direct to government should be taken, as far as practicable, from all persons possessing a hereditary right of property in the soil, in the sense in which Mackenzie had defined it, viz., the power of disposing of the land by sale, gift and mortgage and of regulating the appropriation of it.² The only sure basis for such private property was long and prescriptive possession of land or a *bona fide* title derived from persons having that foundation for their rights,³ which could be ascertained only on the basis of long usage prevalent in a locality. Hence, it was

¹ *Ibid.*, para. 91, p. 242.

² Memorandum, 1 July, 1819, para. 744, *Revenue Selections (1818-1820)*, p. 149.

³ Resolution, 1 Aug. 1822, para. 95, *Revenue Selections (1822-1833)*, p. 25.

ordered that the claims of all classes, the zamindars as well as the ryots, were to be determined on the basis of long usage.¹

Inevitably, on this basis, the rights and claims of village communities and their principal constituents, the village zamindars, as proprietors of the soil were bound to be recognised and admitted. But the Resolutions also declared explicitly the intention of the government to be in favour of their rights and against the rights and claims of all other tenure holders. Of course, from now onwards, in all *bhaichara* and *pattidari* villages, where settlements for revenue had been made with one or more co-sharers, as proprietors of the entire village, other persons holding similar property were to be allowed to participate in the revenue engagements.² Henceforward, in all *pattidari* and *bhaichara* villages, revenue settlements were to be made by selecting one or more persons from amongst the brotherhood to become the *sadar malguzar* and vesting him with the management of the village.³ Such a representative of the village was to be selected 'with reference to past usage and the wishes of the village community'.⁴ He was to be responsible for the collection of government revenue from each individual member holding land in the village community, as well as for distributing it among different sharers. But at the same time, an accurate record was to be prepared of individual property held by each member of the community and the proportion of revenue payable by each with a view to obviating any danger of the leading men of the village abusing their status and authority.

ABOLITION OF THE LANDED ARISTOCRACY AND ALL SUPERIOR TENURES ABOVE THE VILLAGE COMMUNITIES

Apart from making specific legal provisions for the recognition and admission of the proprietary rights of village zamindars for reasons already explained, the Resolution shows evidence of general hostility to the landed aristocracy consisting of the *taluqdars* or large zamindars. The following extract would be found interesting in this connection:

There seems to exist much cause to doubt, whether the class of Talookdars or Pergunnah zemindars can be rendered useful

¹ *Ibid.*, para. 107, p. 27.

² Resolution, 22 Dec., 1820, para. 175, *East India Selections*, Vol. III, p. 255.

³ *Ibid.*, paras. 181-86, pp. 255-56. ⁴ *Ibid.*, para. 186, p. 256.

instruments in the civil administration of the country. Generally speaking, they appear to possess little influence over the people, even where their fraud or violence have not rendered them odious. The object of Government in relinquishing its right to further rent have little or no connexion with the measure of fixing the amount to be contributed by an intermediate collector, and require for their full accomplishment, that the persons more immediately connected with the land, and more immediately regulating its cultivation and the works to be undertaken for its improvement should be secured in the fruits of their exertion and industry; and, finally there seems reason to think that the class in question, if made responsible for the punctuality of their payments, cannot be preserved without a large sacrifice on the part of Government not only to provide for the ordinary charges of their management, but also to maintain them and their dependents in a suitable condition of comfort and respectability, and to secure them from the consequences of their own weakness, indolence, extravagance and vice.¹

It appears that the government felt inclined to supersede the rights of all *taluqdars*, *rajas*, *pergunnah* zamindars, though after adequate compensation.² In fact, in the later Resolution of 1 August, 1822, the government even declared that the *taluqdars* possess slender title to the character of proprietors.³ Even if they were left to manage their estates in some cases, the government enacted that a *mofussil* settlement should be made with each of the proprietors or occupants possessing a heritable and transferable property in the soil or a hereditary right of occupancy subject to the payment of a fixed rent. The rights of the parties were to be carefully ascertained and recorded, with a view to preventing the *taluqdars* from oppressing the village communities.⁴ *Pottahs* were to be granted to all proprietors and occupants defining the conditions on which they were to hold their lands in all *mehals* 'hitherto recognised as

¹ Resolution, 22 Dec., 1820, para. 164, *Ibid.*, p. 253; also see paras. 91, 94, *Ibid.*, pp. 253-55.

² Resolution, 22 Dec., 1820, paras. 165, 169 and 170, 173, *Ibid.*, pp. 253-55; also see Resolution, 1 Aug., 1822, para. 173, *Revenue Selections (1822-1833)*, p. 41, where His Lordship considered the deprivation of the original *taluqdars* and zamindars of the management of their *mehals* clearly equitable.

³ Resolution, 1 Aug., 1822, para. 176, *Ibid.*, p. 42.

⁴ Resolution, 22 Dec., 1820, para. 172, p. 254; also Clause Second, Sec. X, Regulation VII, 1822, in *East India Selections*, Vol. III, p. 375.

the taluq, zamindari, or the like of one or more sadar malguzars'.¹

For similar reasons, the government also desired that the auction purchasers be made to relinquish their land in favour of the village communities and be compensated for their loss, if any.² For future, the government also instructed the collectors to repurchase these estates when they came up for sale for arrears of revenue. Revenue settlements on such estates were to be made with village zamindars or other permanent occupants.

Further, even in cases where some estates came temporarily under the direct management of government, due to either default or recusance of the proprietors, the government recommended that a settlement be made with the village community under the management of a headman.³

DESIRE TO MAINTAIN THE UNION OF VILLAGE COMMUNITIES

While the government expressed its clear preference for the recognition and admission of the village communities for revenue engagements, it was no part of its design to bring about a sudden disruption of these communities. In fact, government felt that 'it would be inconvenient and probably mischievous, hastily to dissolve the communities',⁴ since 'where the village communities have been preserved, the civil administration of the country is comparatively easy'.⁵ It was also found that the important object of checking crimes, of curbing the spirit of litigation, and of making the people run the ordinary civil administration could be achieved through the maintenance of these communities and the preservation of their original institutions.⁶ For these reasons, and for avoiding the administrative expense and inconveniences of a *ryotwari* system, the government doubted the expediency of immediately introducing any change where the tradition of village association continued unbroken.⁷

¹ *Ibid.*

² Resolution, 22 Dec., 1820, para. 242, *Ibid.*, p. 264; also see para. 173 of Resolution, 1 Aug., 1822, *Revenue Selections (1822-1833)*, pp. 41-42.

³ *Ibid.*, para. 195, p. 257.

⁴ Resolution, 22 Dec., 1822, para. 182, *East India Selections*, Vol. III, p. 256.

⁵ Resolution, 1 Aug., 1822, para. 183, *Revenue Selections (1822-1833)*, p. 55.

⁶ Resolution, 22 Dec., 1822, para. 184, *East India Selections*, Vol. III, p. 256.

⁷ Resolution, 1 Aug., 1822, para. 235, *Revenue Selections (1822-1833)*, p. 55.

PROTECTION OF RIGHTS OF VILLAGE COMMUNITIES

Apart from the admission of village communities to direct revenue engagements, and the recognition of the rights of property of the village zamindar, it was also an object of the government to protect the village communities and the village zamindars against the government officers or persons responsible for the collection and payment of revenue on their behalf. For this reason, the government provided for the registration and complete record of the rights of every individual in a village in the process of making the revenue settlements. In fact the government now 'regretted that, at the period of . . . acquiring the provinces, the attention of the local officers was not specifically directed to ascertain, by minute local investigation, the actual nature and extent of the right possessed by the several classes connected with land and either occupying the soil or holding the collection of the Government rents'.¹ The revenue officers were required by the new Resolutions to investigate into the nature of rights of all zamindars, to specify the proportion of revenue payable by each and define the extent of property and interest possessed.² The nature of property possessed by each individual was to be explained in great detail.³

The government's instructions in this respect were as follows:

It being the desire of Government that the proceedings held by the Collectors on the settlement of the land revenue should serve as a record for the guidance of the Courts of judicature, especially in regard to the rights of khudkasht or chhapparband ryots . . . and of the village zamindars and pattidars or other joint sharers of estates or other persons whatsoever possessing a right of property in the soil, and paying their rent or revenue to a sadar malguzar or intermediate manager, the collectors proceedings ought to contain a careful *ryebundy* (record) of each village, with a particular detail of the conditions under which the land is held, the mode in which the rents or revenue of the different descriptions of it or parcels occupied by different classes are

¹ Resolution, 22 Dec., 1820, para. 70, *Ibid.*, p. 239.

² Resolution, 22 Dec., 1820, para. 177. *Ibid.*, p. 255; also see Resolution, Aug., 1822, para. 236, *Revenue Selections (1822-1833)*, p. 55.

³ Resolution, 22 Dec., 1820, para. 103, *East India Selections.*, Vol. III, p. 245.

determined, and paid, the respective shares of the zemindar and ryot in lands cultivated under *batai* or *kankut* engagements, the proportions in which the crops are divided and the manner in which their value is settled, the principle by which claims founded on loss are adjusted, the terms on which the cultivation of new lands is undertaken, the privileges and perquisites of the sadar malguzars or of the maliks, Thakoors, Muqaddams or other headmen and their relations, the rights attaching to trees and their produce, the contributions and collections on account of pasturage whether in kind or money, the cesses levied from shop-keepers and manufacturers and other residents, not being cultivators, the allowances in land, money or grain paid to the village officers, and the mode in which those of the two latter descriptions are paid or collected, with all customs and usages connected with the land and territorial revenue.¹

PROTECTION OF RIGHTS OF RESIDENT AND OTHER RYOTS AND FIXITY OF THEIR RENTS AND POSSESSION

Along with the recognition of the proprietary rights of the village communities, the government also declared its intention to ascertain, record and protect the rights of all resident and other ryots who were not mere contract cultivators from season to season or year to year and who enjoyed the rights of perpetual occupancy, subject to the payment of fixed rents or revenue to the village community or to the *sadar malguzars*.

The necessity and expediency of protecting these rights was explained in the following words:

As to the expediency of maintaining the tenures of the ryots, or of allowing them to fall into the condition of tenants-at-will, the Governor General in Council cannot view it as a question debateable. Their rights His Lordship in Council considers it the bounden duty of Government to maintain; and though the policy of putting a perpetual limit to rents payable by the cultivator may be mooted when, in the progress of society, the surplus produce of his lands may so greatly vary, yet such a consideration would not afford any reason for questioning the expediency of

¹ Resolution, 22 Dec., 1820, para. 44, *Ibid.*, p. 235.

giving permanency to rates for a considerable period of time.¹

It will thus be seen that except for the hesitation to fix in perpetuity the rates of rent payable by the ryots which was due to the desire on the part of the government to reserve its power to benefit by the future improvement of agriculture, the government realised the necessity of protecting the rights of ryots and fixing their rents for a considerable period of time.²

The two main methods by which the British Government sought to safeguard these rights were (i) specifying the amount of revenue payable by them to the State through the *sadar malguzars* and (ii) fixing the rents that could be demanded from them by the proprietors. Further, by recording the state of actual possession by means of 'minute local research', it desired to maintain this class of people in the secure possession of their rights and privileges so long as they were not legally transferred by the voluntary acts of the individuals.

Consequently, in the Resolution dated 1 August, 1822, the following declaration was made:

... no real security can be given to the ryots unless we distinctly act upon the principle of minutely ascertaining and recording the rents payable by individual ryots, of granting pottahs, or, at least registering the ryot's holdings, and of maintaining the rates established at the settlements during the term of such settlement as an essential part of the assessment.³

The right of government to interfere in order to fix and define, through the revenue officers, the respective rights of zamindars and ryots was deemed 'incontestable' inspite of the recognition of the zamindars as hereditary proprietors of all interests attaching to

¹ Resolution, 1 Aug., 1822, para. 123, *Revenue Selections (1822-1833)*, p. 31. On the question of the expediency and desirability of fixing the rates of ryots by the government, also see the Correspondence that was exchanged between the Bengal Government and the Court of Directors in *East India Selections*, Vol. III, pp. 437-43.

² This point requires to be stressed here because this principle was later given up with serious repercussions on the actual cultivators involving widespread oppression and dispossession.

³ Resolution, 1 Aug., 1822, para. 125, *Revenue Selections (1822-1833)*, p. 31.

their estates.¹ This right was derived both from past usage² and the new point of view regarding the nature of the right of the State. Since the State was the great rent-owner, entitled to claim the entire net rental of the country, the demands of the government on the ryots were to be determined independently of the will of the *sadar malguzars*. The government was also bound to protect them from oppression and violation of their rights. In fact, it was even laid down that if the government wished to relinquish any of its own rights in favour of the *malguzars* (engagers for revenue), it was essential to make such stipulations for protecting the rights of the inferior tenantry as might be necessary.³

It is interesting to note in this connection that the purpose of the Bengal Permanent Settlement regulations had to be redefined in this respect and also in order to prove that the government always intended to maintain the rates of rent existing at the time of the settlement,⁴ and 'to protect the ryots against any arbitrary enhancements of rents'.⁵ A most ingenious interpretation was placed on the intentions of Lord Cornwallis and the regulations of the Bengal Code in the following words:

The views of Lord Cornwallis... specifically pronounced in his Minute of 3rd February, 1790, wherein he distinctly declares that rents were only to be raised by reclaiming waste, or inducing the ryots to cultivate the more valuable articles of produce; and the preambles of Regulations XIX, and XLIV, 1793, by declaring the original right of Government to ascertain proportion of the produce of every beegah of land, and designating the profits of the *malguzars* as the difference between the value of such proportion of the produce and the sum payable to the public, *appear to be founded* (Italics ours) on the principle that the ryot's payments were to be regarded, not as the mere rent of land due to an absolute proprietor, but as an assessment payable to intermediate managers, possessing an hereditary and transferable property in the incidents of their management.⁶

¹ *Ibid.*, para. 126, pp. 31-32.

² *Ibid.*, para. 93, p. 24; also para. 106, p. 27 and para. 33, p. 9.

³ *Ibid.*, para. 107, p. 27.

⁴ *Ibid.*, paras. 115-16, p. 29.

⁵ *Ibid.*, para. 116, p. 29.

⁶ Additional support for this view was sought to be derived by reinterpreting the regulations of the Benares Code and Regulation V of 1812. However, even when the attempt was to prove that the new approach was consistent with the past laws in principles, it was distinctly conceded that they were 'wanting in

It is evident that such reinterpretation was rather far-fetched. There is no reference here to the preamble of Regulation II of 1793 which had declared that the right of private property in the soil was vested in the zamindars. There is no mention also of a host of other regulations which reinforced, reaffirmed and secured all the rights and privileges conferred on the newly created landed proprietors. Moreover, such an interpretation went against the whole spirit of the Bengal Permanent Settlement and Lord Cornwallis's policies. The zamindars' right of private property in the soil, for which Cornwallis had argued so vigorously, was now shown to be merely a right to collect fixed rents laid down by the government from tenants who could not be disturbed in their possession. This was a far cry from the explicit intentions of Lord Cornwallis. But in view of the praises showered on the Bengal Permanent Settlement and the high esteem in which Lord Cornwallis was held among the Bengal officers, it was essential that the new principles should be presented not as a departure but merely as a continuation and fulfilment of the principles and policies which Lord Cornwallis did not succeed in following out to their logical consequence.¹

It was now laid down that 'the superior *malguzars* should be restricted to the rates of rent ascertained and determined at the time of settlement in case of all resident ryots, who, from the custom of the country, possessed a permanent right of occupancy'.² And in determining these rates of rent, the government desired that 'long usage' be fully adverted to.³ Emphasis was placed on usage because the notion that generally prevailed was that the rents payable by the cultivators were regulated according to fixed rates determined by local custom and, therefore, the government demand from the ryots was to be likewise fixed on the same principle.⁴

Thus, the revenue officers were required 'to investigate and record the rights and privileges possessed by the great body of that clearness which so important a matter demanded,' (Resolution, 1 Aug., 1822, para. 120, *Ibid.*, p. 30), and that 'the great author of the permanent settlement... did not estimate with sufficient distinctness the degree in which the possession by the ryot of a right of occupancy at determinate rates must limit the proprietary interest of the zemindar, nor provide with sufficient precision for such a limitation'. (Resolution, 1 Aug., 1822, para. 120, *Ibid.* p. 30).

¹ Particularly see the letter of Board of Commissioners in Bihar and Banaras, 8 March, 1822, to the Bengal Government in *East India Selections*, Vol. III, pp. 302-03.

² Resolution, 1 Aug., 1822, para. 105, *Revenue Selections (1822-1833)*, p. 27.

³ *Ibid.*, para. 107, p. 27.

⁴ *Ibid.*, para. 86, p. 22; also see Resolution, 22 Dec., 1820, para. 110, *East India Selections*, Voll. III, p. 246.

cultivators and the nature and conditions of the tenure of each ryot'.¹ In the case of those who claimed a right of hereditary occupancy, subject to the payment of a fixed rent, collectors were required 'to ascertain how far the claim is well founded, to determine precisely the extent of interest possessed, and to settle the mode in which their rents (were) adjusted and collected'.² These investigations were to be made about all facts 'touching each village, and every field in it'.³

Suitable powers were given to the collectors by Regulation VII of 1822 to fix the rents of cultivators, to grant them *pottahs* and to secure their possessions with scrupulous care. The extreme solicitude for the rights of individuals is indicated by the following provision in this Regulation:

If any person shall complain to the collector . . . that he has been wrongfully dispossessed from any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, watercourses, tanks, reservoirs, or the like, within a mehaul, or of the rents, produce, or profits of such lands, premises, &c. the like as aforesaid, or that he has been wrongfully disturbed in the possession thereof, it shall be competent to the collector to inquire into the matter, and if the party so complaining shall appear to have been in possession . . . and there shall otherwise be reason to believe that he has been violently or wrongfully dispossessed or disturbed it shall be competent to the collector to restore or confirm him.⁴

(v) *Nature of Property Rights Implicit in the New Principles and their Implications*

The Bengal Permanent Settlement had sought to create a class of landed proprietors, with a heritable and transferable right of property in the soil. This right also included the power to collect all the rental surplus in future from the tenants, which under the native revenue system, had belonged to the State. The new principles sought to restrict this right of the landed proprietors merely to a small fraction

¹ Resolution, 1 Aug., 1822, para. 49, *Revenue Selections (1822-1833)*, p. 13.

² Resolution, 22 Dec., 1820, para. 104, *East India Selections*, Vol. III. p. 245.

³ Resolution, 1 Aug., 1822, para. 259, *Revenue Selections (1822-1833)*, p. 60; also see para. 128, p. 32; also see Revenue letter from Bengal dated 1 Aug., 1822, para. 109, *East India Selections*, Vol. III, p. 441.

⁴ Clause Fourth, Section XIV, Regulation VII, 1822, *East India Selections* Vol. III, p. 379.

of the total rental surplus at the time of settlement (from 10 to 20 per cent of the assessment). The State now resolved to exercise its inherent right to collect the entire rent from the land at the time of the settlement as well as in future. It also decided to fix the rents payable by the ryots to the recognised landed proprietors wherever they might be allowed to remain for the period of the revenue settlement and not to allow the latter to exercise any power to enhance rents during that period.¹ What was then the nature of private property in land which the British Government now wanted to create?

From the documents referred to earlier, we find that the rights of property which the authorities sought to ascertain, record and protect were those which they found in actual existence by means of minute local enquiry. They were anxious to protect all the customary rights, and local usages related to the holding of land and the distribution of its produce. Great emphasis was therefore laid on meticulous local investigation. The revenue officers were to conduct their enquiries 'in the villages and amidst the people'. The following instructions were given to the collectors in this connection:

It shall be the duty of collectors, and other officers exercising the powers of collectors . . . to unite, with the adjustment of the assessment and the investigation of the extent and produce of the lands the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests, and privileges of the various classes of the agricultural community. For this purpose, their proceedings shall embrace the formation of *as accurate a record as possible of all local usages connected with landed tenures, as full as practicable a specification of all persons enjoying the possession and property of the soil, or vested with any heritable or transferable interest in the land, or the rents of it, care being taken to distinguish the different modes of possession and property, and the real nature and extent of the interests held more especially where several persons may hold interests in the same subject matter of different kinds or degrees.* (Italics ours) This record shall, in putteedary or bhyachara villages, or the like, include an accurate register of all the coparceners, not merely the heads of divisions, such as the puttees, thokes, or behrees, but also as far as possible of every person who occupies land, disposes

¹ Stokes, *op. cit.*, p. 112.

of its produce, or receives rent as proprietor, or as agent for one or more proprietors holding land and disposing of its produce, or receiving the rents of it in common, with a detailed statement of the interior arrangements adopted by the brotherhood, for the distribution of the profits derived from sources common to the coparcenery where any such exist, and for determining the share of the Government jumma, and of the village expenses which each parcener is to contribute, or the other modes in which engaging parcener or intermediate putteedars and behreedars collect from the cultivators. A record shall likewise be formed of the rates per beegah of each description of land or kind of produce demandable from the resident cultivators not claiming any transferable property in the soil, whether possessing the right of hereditary occupancy or not, and the respective shares of the sudder malgoozar, or other manager, and the cultivators, in lands cultivated under kunkoot, bataie, or similar engagements, with a distinct specification of all cesses or extra collections made by the malgoozar, or village manager, or other. The names of all the village putwarees and village watchmen shall also be registered with a statement of the amount and nature of allowance assigned them. And all lakheraj (exempt from payment of government revenue) tenures shall be carefully recorded, with a specification of the nature of the tenure.¹

However, despite this concern for the maintenance of all existing rights, interests and privileges enjoyed by the various classes in the agricultural community, the corner-stone of the British policy was to recognise the rights of private property in the soil enjoyed by the village zamindars. The criterion which they adopted for recognition of proprietary rights in the soil was 'the power of disposing of the land by sale, gift and mortgage, and of regulating the appropriation of its produce, subject only to the payment of the Government share of produce and subject to the temporary or limited character of the occupancy rights of individuals'.² This was fundamentally different from the criterion adopted earlier, viz., the power of 'regulating occupancy and appropriating rent'³ which was presumed to have been

¹ Section IX, Regulation VII, 1822, *East India Selections*, Vol. III, p. 374.

² Holt Mackenzie's Memorandum, 1 July 1819, para. 744, *Revenue Selections (1818-1820)*, p. 149.

³ Minute of the Governor General, 20 Jan., 1832, para. 10, *Revenue Selections (1822-1833)*, p. 354.

vested in the landed proprietors recognised earlier. Since the village zamindars, called proprietors in common parlance in India, possessed the power of disposing of the land by sale, gift or mortgage, though they seldom exercised it in practice owing to the various difficulties already discussed in Chapter III, they were to be recognised as the proprietors of the soil. But they had neither the power to regulate occupancy nor to appropriate rent, the former being vested in the village community and the latter in the pre-British Governments. However, with the acceptance of the new basis for the recognition of proprietary rights, they became fully entitled to recognition as full-fledged proprietors of the soil. Since the government had assumed the power to collect the entire net rent of the country, to fix the rates of rent payable by resident ryots and to maintain them during the period of the settlement, it followed that the property rights of the village zamindars included neither the power to regulate occupancy nor to appropriate rent.

On estates, where the settlement was not made with the village community but with an intermediate proprietor, the government decided to limit the rights of the latter to a mere fraction of the rental surplus assigned in their favour at the time of the settlement (anywhere between 10 to 20 per cent of the government assessment). A *mofussil* settlement with all occupants on their estates was to be made, and their rents determined and maintained for the duration of the settlement. Thus, on such estates also, the power of regulating occupancy and appropriating rent was not to be left in the hands of recognised proprietors.

DISTRIBUTION OF BENEFITS ARISING FROM THE LIMITATION OF GOVERNMENT DEMAND

This dual conception of the nature of property rights in the soil raised a peculiar problem. In spite of laying claim to the entire rent of land and reserving to itself the power of determining the rates of rent payable by ryots in accordance with the investigations of the revenue officers, the State regarded it necessary and expedient to fix its own revenue demand either in perpetuity or for a long term of years. During this period, there was bound to be extension of cultivation on wasteland and improvement of agriculture on already cultivated land. The productivity of the soil was bound to be influenced by both natural and artificial factors. The cultivation of more valuable

crops, the expansion of the market for agricultural raw materials, construction of public works and the general prosperity of the country were bound to increase the differential advantages reaped by proprietors and thus raise the magnitude of rental surplus. The State could at best claim only a portion of this increase by revising its revenue assessments after long periods. But what about the fortuitous benefits accruing to the proprietors in the meanwhile?

This difficult problem taxed the ingenuity of the Bengal Government.¹ The more they deliberated upon this question, the more keenly they realised 'the necessity of much careful research and of long and serious reflection, before any irrevocable measure (like the Permanent Settlement or fixation of a long period as the term for the duration of revenue assessments), was adopted'.² The way this problem was formulated by the government is indicated by the following:

The immediate effect of a permanent settlement (or of fixing the revenue for a long term of years) must be . . . to create, through the limitation of the Government demand, a new property before unknown or comparatively of insignificant amount, viz., a considerable surplus profit or rent from the land,³ after defraying the charges of cultivation, the profits of stock, and the Government revenue. The distribution of this fund which in a moderate period will probably equal the present revenue of Government, may have a very important influence on the whole frame of society, and the relations of its different members.

Were land held here by tenures analogous to those generally prevalent in our own country, we should have little hesitation in recognising the expediency of leaving to the *proprietors* the full benefit of future improvement; though, even in this case, it might become a question how far some limit should be put to the subdivision of property, or to that of the advantages derived from the limitation of the Government demand.

But the question is rendered much more complex by the entanglement of the various rights attaching to the land. The gradual rise

¹ For a concrete illustration as to how the value of the rights of particular proprietors would rise by the limitation of government demand, see Resolution, 1 Aug., 1822, paras. 185 to 293, *Revenue Selections (1822-1833)*, pp. 65-67.

² Revenue Letter from Bengal, 28 Dec., 1821, para. 27, *East India Selections*, Vol. III, p. 287.

³ In case of village zamindars who were cultivating proprietors of their lands, it was to accrue as surplus profit while in the case of intermediary proprietors who did not cultivate their lands themselves, it was to accrue as rent.

of the general body of landowners from the depression necessarily prevalent in a country where the Government demand has absorbed nearly the entire net rental of the soil, is in effect calculated . . . to produce almost certain and unmixed good. The result, however, may be very different if particular parties or persons are raised in every mehal (estate) above their present level as compared with their village associates. All may with advantage ascend together in the general scale of society; but the immediate rise of one above his fellows would be felt, and would actually operate, as a degradation of the rest.

On the other hand if no special advantages are given to any one, and if the net rent be distributed among all who own and occupy land, many of the subjects with a view to which the permanent settlement of the revenue is most desirable may be lost, the instruments of good government may be wanting, the net produce of the land may be frittered away among a multitude of needy cultivators, and the relinquishment by government of its rights to an increased revenue may serve only the hurtful purpose of enabling the occupants of the soil, to waste an useless superfluity of labour in its tillage.¹

It will be evident that the manner of distribution of the benefits arising from the limitation of the government demand (either in perpetuity or for a long term of years) seemed important principally from the political point of view. The government wondered whether one or two persons in each village may be given the right to appropriate the new property in order to encourage them to aid the government in local civil administration, or whether it should allow the benefits of limitation of land revenue demand to be diffused over the general mass of small proprietors organised in the village communities. In its political aspects, the problem was important enough to require long deliberation, because any decision, one way or the other, was likely to affect the relations of persons in the village communities in a vital manner. Thus the Bengal Government wrote to the Court of Directors that in their opinion, 'in the whole circle of political science there is scarcely any question more important in its relation to private interests and to the public weal'.²

¹ Revenue Letter from Bengal, 28 Dec., 1821, paras. 29-32, *East India Selections*, Vol. III, p. 287.

² *Ibid.*, para. 34, p. 287.

No decision was taken in view of its far-reaching implications. In Regulation VII of 1822, the Government merely reserved its power 'to determine and prescribe the manner and proportion in which the net rent or profit arising out of the limitation of the Government demand shall be distributed among the different parties possessing an interest in the lands appertaining to such mehal, or in the rent or produce of such lands or mehal'.¹ In fact, they postponed a decision for 'future consideration',² and in the meanwhile desired to form 'a very distinct view of the state of things as they actually exist', and sought to ascertain 'all the particulars as they may be exhibited under different forms in different parts of the country'.³ Their immediate aim was to avoid any sudden or unnecessary change in the inter-personal relations in the village communities.⁴

As the subject involved a policy decision of the highest importance, the Bengal Government drew the attention of the Court of Directors⁵ to this question and sought their advice and instructions in the following words:

... every day's experience strengthens us in the persuasion that, before finally determining on the measure, the probable influence of the arrangement (of permanent settlement) on the future conditions of the people must also be carefully weighed.

The measure is clearly one calculated to have a very extensive influence on the condition of the people and the circumstances of the country. In regard to the expediency of so limiting the public assessment as that the land may be or become a valuable property to its owners, we do not imagine there can exist much difference of opinion; but it is a different, and very difficult question to determine how the surplus arising out of such a limitation shall be appropriated, so as to place the different classes affected by it in the condition most desirable for the country. Before attempting a practical solution of this question, which involves, of course, the primary question, what condition of things it is desirable to produce (for gradual change seems inevitable), we must especially seek to

¹ Clause First, Section X, Regulation VII, 1822, *East India Selections*, Vol. III, p. 375.

² Resolution, 1 Aug., 1822, para. 124, *Revenue Selections (1822-1833)*, p. 31.

³ Revenue Letter to Bengal, 1 Aug., 1822, para. 25, *East India Selections*, Vol. III, p. 301.

⁴ Revenue Letter from Bengal, 28 Dec., 1821, para. 33, *Ibid.*, p. 287.

⁵ Revenue Letter from Bengal, 28 Dec., 1821, para. 34, *Ibid.*, p. 287.

be guided by the advice and directions of your Honourable Court.¹

It would thus be evident that the British authorities, while adopting the new principles of revenue settlement, were also simultaneously making an attempt to look far into the future and assess, in the light of the principles of political economy, the probable effects of their policies on the shape of things to come. It was one of those crucial moments in the history of British administration in the Ceded and Conquered Provinces when a momentous decision of enormous significance for the future economic, political and social development of the province was to be taken with deliberate caution and full consideration. The Bengal Government desired the Court of Directors to send instructions regarding the 'condition of things it is desirable to produce' since a change in the socio-economic life of the country was inevitable. They wanted to direct and assist the process of change in a manner that the Home authorities regarded as most desirable.

It appears that the Court of Directors did not send any specific instructions to the Bengal Government and Mackenzie made his own proposals. In making his proposals, Mackenzie took note of a very important factor in the native institutions, viz., the prevalent system of subdivision of property according to which all property whether in land or in its rent and produce was sub-divided equally amongst all male heirs.² He foresaw that if the benefits of the limitation of

¹ Revenue Letter from Bengal, 1 Aug., 1822, paras. 24-25, *Ibid.*, pp. 300-01.

² Holt Mackenzie, Memorandum, 19 Oct., 1826, para. 426, *Revenue Selections (1822-1833)*, p. 148. He expressed himself as follows on this question:

'A reference to the great number of parceners in some of the villages, contrasted with the small extent of the property, will evince that if all are admitted to engage, we may speedily have a system of management even more detailed than the ryotwar. For, even if the land were converted into potato gardens, there would not in some cases be room for all the proprietors. The utter uselessness of limiting the Government demand excepting in the degree necessary for profitable tillage, must in such cases be obvious. The whole rental of the village, if scattered among such a host, would have little influence in raising them from beggary; and if, therefore, we would have any class above that of paupers drawing their incomes from the rent of land, it seems to be indispensable to restrict the sub-division of that *portion* which we are *about to create* by a limitation of the *government demand*. This may, I conceive, be done unexceptionably and in entire accordance with the notions of the people, by considering the sudder malgoozar to be a government officer, though selected from the proprietary class, holding a life-tenure during good behaviour. The law may then be left to take its course in regard to the inheritance of the property actually belonging to the zemindars, though were it possible without offence, some modification of it might be expedient. The evils incident to excessive sub-division will be greatly palliated by

government demand were allowed to be enjoyed by all proprietors of land, viz., the village zamindars, whose already small parcels of land would be further sub-divided in the course of a generation or two, the net rent would be frittered away by distribution amongst needy cultivators, and would not be of any real benefit either to the proprietors or to the government. The small owners and cultivators of little patches of land, since they would enjoy the benefits of the limitation of government demand, would receive not merely the necessary wages of labour and ordinary 'profits of stock' but also a surplus. They would therefore be tempted to cling to their small holdings and waste unnecessary labour on them without being really better off.

Similarly in extensive zamindari and *talugdari* estates, held by large proprietors, if the benefits of limitation of government demand were allowed to be enjoyed by the proprietors, 'the love of ease and sensual indulgence'¹ would be encouraged and proprietors would tend to let the villages in their estates to under-farmers, thus exposing the community to all the evils which were associated with the system of 'farming'.²

He, therefore, suggested that the property in lands enjoyed by proprietors, i.e., village zamindars, according to local usage and custom, should be kept distinct from the 'new property' which would emerge as the result of the limitation of the Government demand, and would consist of the difference between the sum (payable)

the existence of one or two men in each village raised above want. And we shall possess in the malgoozars a class capable of rendering important aid in the civil government of the country.'

'That the property possessed by individuals in land is infinitely small compared with that belonging to Government (for the return of labour and stock must be deducted from the gains of the cultivator), it must almost be superfluous at this time of the day to remark. But holding nine-tenths of the clear rent of the country as a fund to be administered for the public good, the Government may, I think, justly be regarded as under a very solemn obligation to consider more fully than has hitherto been usual, how it can dispose of *that fund* so as to produce the greatest sum of happiness. *The subject branches out so extensively that I am almost bewildered in attempting to embrace it.* But of one thing at least I am sure, that Government will very imperfectly discharge the obligations of its public duty, if it does not pause long and ponder well before giving up the disposal of the public rental. With the lights now thrown upon the subject, the proceedings connected with the permanent settlement of Bengal, far from being taken as a model for imitation may justly fill one with amazement, that the good and eminent men concerned in it should, with such information and on such grounds, have adopted, so vast and irrecoverable a measure.'

¹ Memorandum, 19 Oct., 1826, para. 421, *Revenue Selections (1822-1833)*, p. 146.

² *Ibid.*, para. 422, p. 147.

according to usage and the fixed jumma'.¹ The former should be left to the operations of the Hindu and Mohamedan law,² while for the latter he proposed that the government should 'recognise some one head for each village or division of a village, whether under the designation of mocuddum, malguzar, lumberdar, or whatever name may be thought best'³ and to appropriate the new property for their exclusive enjoyment.⁴ He considered it indispensable to restrict the 'sub-division of that portion which we are about to create by a limitation of the Government demand'⁵ amongst the heirs of these persons recognised as entitled to enjoy this property exclusively, and wanted it to be regulated by the government according to the law of primogeniture.⁶

Mackenzie was of the opinion that such an arrangement would tend to secure what is so much wanted, a class of persons recognised as officers of government, yet possessing a fixed and hereditary connection with the land.⁷ He candidly said that, in these persons, the government will have 'a class capable of rendering important aid in the civil government of the country'.⁸ Moreover, in this manner, 'the net rental of the land, which represents the value of those productive powers which nature has bestowed on it, will . . . be applied to the use to which such a fund is most naturally destined, the support of the civil government of the country'.⁹

In justification of his suggestions, Mackenzie argued that the 'new property' could be 'appropriated without any difficulty to any person or persons whom Government may select, since the practice of native Governments, in assigning the whole of the revenue in jagheer, must obviate any objection to (the Government's) assigning a part'. He reinforced his arguments by pointing out that the arrangement 'would be strictly conformable' to the native institutions.

It would thus be evident that Mackenzie was pleading for something similar to what had existed before the establishment of the British rule when he wanted the rights of property in the soil to be kept distinct from the rights of property in the government rent and wanted to vest the right to the economic benefits arising from the limitation of government demand in a special class of persons who

¹ *Ibid.*, para. 509, p. 159.

² *Ibid.*, paras 426 and 509, pp. 148 and 155.

³ *Ibid.*, para. 507, pp. 154-55.

⁴ *Ibid.*, para. 510, p. 156.

⁵ *Ibid.*, para. 426, p. 148.

⁶ *Ibid.*, paras. 510-11, pp. 156-57.

⁷ *Ibid.*, para. 510, p. 156.

⁸ *Ibid.*, para. 426, p. 148.

⁹ *Ibid.*, para. 511, p. 156.

could be used for the civil government of the country.

The reaction of the Bengal Government to Mackenzie's proposals was not very favourable. His suggestions were either not fully understood or appeared too far-reaching in their implications. The only available evidence of the reactions of the Bengal Government are the notes of J. H. Harington, an influential member of the Bengal Supreme Council, which were made on the Memorandum itself and which have therefore been published along with it.¹

From the comments, one finds that Harington reacted strongly against Mackenzie's proposals. He failed to understand 'what is meant by restricting the sub-division of that portion which we are about to create by a limitation of the Government demand'.² Nor did he fully comprehend the meaning of the 'new property' sought to be created deliberately.³ He did not clearly grasp Mackenzie's theoretical assumptions based on the Theory of Rent, and believed that once the government had settled the revenue with the proprietors in perpetuity or for a long term of years, the benefits of the limitation of government demand should go to all the proprietors whether these benefits arose in the form of extra profits (for cultivating proprietors) or in the form of extra rent (for non-cultivating proprietors). In this respect, he was fully under the influence of the principles of the Bengal Permanent Settlement according to which the State had not only abrogated its rights to draw an increased rent from the land in future but had also accepted the policy of encouraging the growth of private landed property in the possession of landed proprietors. But Mackenzie contemplated a distinction between the privilege of enjoyment of a given share of rent assigned by the State and the power to draw increasing rents from the tenants—a distinction which was the key to an understanding of the native institutions of land tenure.⁴ He wanted the latter power, as under the native systems, to be reserved entirely to the State. The former privilege could be conferred upon individuals who may aid the civil administration of the country. In their case, however, inheritance could be made subject to the rules of primogeniture instead of the Hindu and the Mohamedan laws of sub-division of property.

¹ See *Report of the Select Committee on the Affairs of the East India Company* 1832, Vol. III, Revenue, Appendix 81, pp. 243-97. The Memorandum of 19 Oct., 1826, as printed in the *Revenue Selections (1822-1833)* does not contain all the marginal comments of Harington.

² *Ibid.*, p. 273.

³ *Ibid.*, p. 273.

⁴ See Stokes, *op. cit.*, p. 111.

Consequently, commenting on Mackenzie's remarks about the necessity for the Government 'to pause long and ponder well before giving up the disposal of the public rental'.¹ Harington observed 'I cannot help thinking there is some mistake in this argument; if not, I confess that I do not understand it'. Referring to Mackenzie's criticism of the Bengal Permanent Settlement,² Harington said that 'on the whole, we (the Government) should, I think, do well to imitate much of what was done or intended by the good and eminent men referred to'.³

Harington thought that since 'the profits arising out of the limitation of the Government demand upon estates constitutes their principal value, this should be secured to all the proprietors as far as circumstances admit'.⁴ He was against making a distinction between the 'new property' and the so-called old private property in the soil held by the proprietors and desired the two to be fused into one, as was done under the Bengal regulations.⁵ He saw no fiscal inconvenience arising from the sub-division of landed estates,⁶ nor any serious evil from the free operation of the laws of inheritance, Hindoo or Mussulman. He believed that 'when the shares on landed estates become too small for division, they will not be divided'.⁷ He regarded it as a 'serious infringement of the Hindoo and Mahomedan laws of inheritance to establish a rule of succession by primogeniture';⁸ and saw 'no necessity for it'.⁹

It would thus be evident that Harington's opinions were coloured deeply by the premises of the Bengal regulations and he therefore failed to appreciate the full significance of Mackenzie's proposals and their theoretical foundations. As we shall see in Chapter IX, his opinions ultimately led to the restoration of the principle that private property yielding rent may be allowed to be enjoyed by the proprietors howsoever numerous be their number, the very possibility against which Mackenzie had so vehemently argued on the basis of abstract arguments derived from the theory of rent. This was in complete accord with the fundamental principle of the Bengal regulations, viz., that the right of property in the soil included both the power to dispose of the land by sale, gift or mortgage as well as

¹ See fn. on p. 56.

² See fn. on p. 56.

³ Memorandum of Mackenzie, 19 Oct., 1826, in *Report of the Select Committee*, 1832, Vol. III—Revenue, Appendix, pp. 273-74.

⁴ *Ibid.*, p. 277.

⁵ *Ibid.*, p. 277.

⁶ *Ibid.*, p. 274.

⁷ *Ibid.*

⁸ *Ibid.*, p. 277.

⁹ *Ibid.*

the power of regulating occupancy and appropriating rent' subject to the payment of government revenue.

The reason for the rejection of Mackenzie's proposals was that, in Bengal, the right of property in the soil had already been recognised as having been vested in the classes which had nothing, or very little, to do with the actual cultivation of land. These persons had so far exercised the powers of 'regulating occupancy and appropriating rent' and with these advantages in view, had invested large sums of money in the purchase of landed estates. Moreover, public and private sales of land conducted under the authority of the British laws had further accelerated the process of consolidation of landed property in the hands of non-cultivating proprietors recognised by British law. To restrict the rights of these persons merely to the enjoyment of a specific share of the 'net rent' left by the government in their favour, and not to grant them permission to raise rents received from the occupants was politically a very difficult task. Similarly, to permit the village zamindars in the village communities not to lease out their holdings for rent but merely to cultivate them or to transfer them by sale, gift or mortgage was also inconsistent with the nature of property rights which the Bengal regulations had sought to establish. It was also difficult to enforce such restrictions on the village communities if all the intermediate proprietors were permitted to continue.

In view of these practical considerations, which were also supported by economic arguments borrowed from the advocates of a Zamindari Settlement, the government did not consider it expedient or practically feasible to abrogate the rights of proprietors in respect of their powers of 'regulating occupancy and appropriating rent' and permitted the growth, to a limited extent, of private rent-property in the hands of the individuals. It went only to the length of modifying the exercise of these powers in such manner as to ensure a reasonable degree of security for the actual cultivators, stopped short of abolition of private rent-property altogether and only assumed the power to regulate it.

The scattered distribution of the 'new property' referred to by Mackenzie, in later years, led to an extreme sub-division and fragmentation of landed property and to a widespread dispossession of the village zamindars from their holding on account of a rise in the value of their lands. This might also partly explain the extreme pressure of population that grew on land in the later decades of the nineteenth century, although many other factors

also contributed to it. Had Mackenzie's proposals been adopted perhaps the contours of the agrarian problems in India might have been somewhat different.

GENERAL PRINCIPLES LAID DOWN FOR REVENUE SETTLEMENT

In conformity with the policy-decisions explained above, the following principles were laid down for the guidance of the revenue officers in revising the settlements.¹

- (1) To unite with the revision of the government jumma, and the investigation of the facts by the determination of which its amount must be regulated, a full enquiry into, and a careful settlement of, the rights and interests of all classes connected with the land.
- (2) To provide, by distinct rules, for the maintenance of the rights and properties of all such classes, until legally transferred, renounced, or defeated.
- (3) To fix, as precisely as possible, the manner and proportions in which the net rent or profit arising out of the limitation of the Government demand is to be distributed among the different parties possessing interest in the soil.
- (4) To vest the revenue officers with such judicial functions as may appear necessary to enable them to execute the duties above sketched.
- (5) To continue the existing assessment in ordinary cases, until a revised settlement can be made, as above proposed, and on such revision, to alter the jama only in cases wherein a clear ground may be shown for demanding an increase, or allowing an abatement.²

(vi) *Meaning, Significance and Implications of the New Principles*

A careful study of the contemporary documents creates the distinct impression that the new principles of revenue settlement were adopted by the Bengal Government with great mental reservations. In view of the fact that the Bengal administration was long used to the principle of non-interference with the relations between the landed proprietors and their tenants, and that the opinion of very important

¹ Resolution, 1 Aug., 1822, para. 60, *Revenue Selections (1822-1833)*, p. 16.

² *Ibid.*, paras. 61-65, pp. 16-17.

members of the Bengal Government and the Board of Commissioners as well as many other officers was inclined towards a permanent zamindari settlement, the pronounced inclination of the Home authorities to introduce a ryotwar plan of settlements was eventually accepted but not without great caution and moderation. Under the pressure of Home authorities and the influence of powerful individuals like Holt Mackenzie, and Lord Moira, the government gradually moved towards a plan which approximately accorded with the wishes and instructions of the Court of Directors. Consequently, in all the resolutions of the government, conflicting views had to be reconciled before a decision could be reached and properly executed. During the whole of this period, there was vacillation and uncertainty about the whole question of determining the desirable pattern of agrarian relations for the future.

However, it is evident that the new principles were put into practice with a view to establishing a land system in the Ceded and Conquered Provinces, according to which the rights, interests and privileges of the village zamindars and the resident tenants, organised into the village communities, could be fully protected against violation by the government or by the superior landed proprietors. In fact, the objective was to abolish all superior tenures in land above those of the village zamindars, who were the real proprietors as well as the cultivators of the soil, and convert all the intermediary holders into mere stipendiaries of government enjoying a limited and fixed portion of government revenue without the power to interfere with the rights of the village communities in general and the village zamindars, and resident tenants, in particular. The new principles were designed to prevent them from standing in the way of improvement of cultivation, and to maintain them merely for political purposes.

Implicitly, the new principles also aimed at the abolition of all private property in rent of land as it was declared that the government was empowered to claim the entire rental surplus of land. According to the theory of rent, absorption of rent by means of taxation did not check either the progress of cultivation or its improvement and rent was merely a deduction from the total wealth of society. Consequently, the British Government did not desire to encourage or even permit the growth of private property in rent. On the contrary, they wanted to severely restrict it by fixing the rents payable by all cultivators for the period of the revenue settlements. This would have virtually meant the transfer of all benefits

from the limitation of government demand to the immediate cultivators of the soil, who were supposed to be the principal instruments of agricultural progress and improvement.

These policies of the British Government bear strong resemblance to the policy of 'abolition of intermediaries' which is being implemented in modern India since Independence, although, the scale of this operation was not very significant because the number of estates taken away from intermediate proprietors and repurchased by the government was not very large. Moreover, very soon after 1832, the process was halted by a change in policy due to the fact that the government was unable to give effect to its plan in view of the numerous practical difficulties and the political repercussions.

The new principles were also designed to transform the nature and organisation of the village communities. Even though, apparently, the regulations required the government to ascertain, record and protect the rights and privileges which the different classes in the agricultural communities were found to be enjoying according to local customs and past usages, the acceptance of the principle of recognising the proprietary rights in land of every individual member of the village and giving him the right to engage directly with the government for the payment of his share of government revenue, if he so chose, struck at the roots of the village community organisation. It converted into individual property what was essentially the joint communal property of the village. It undermined the traditional and customary hierarchy of social rank and status which had maintained the primitive unity of these 'idyllic republics'. Formerly, the village zamindars, though formally possessing the right to transfer their lands by sale, gift or mortgage, seldom exercised it since they were subject to many traditional restrictions imposed by the village community. Under the native usage and custom land was not a vendible commodity, partly because it did not have much value as a means of investment and partly because there was a traditional restriction on alienation. Under the British rule, no such restriction was recognised. Every individual household of the community was vested with a full right of property in his parcels of land, subject only to the payment of such share of government revenue as he was liable to pay to the community. The deliberate policy of giving a value to the proprietary rights of the members of the village communities by limiting the government demand enabled them to raise credit on the security of their land for payment of government revenue and

to meet other monetary obligations. This was calculated to produce vital changes in their mutual relations which were foreseen by Holt Mackenzie and the Bengal Government, and which actually occurred between 1833 and 1857.¹ The virtual abolition of all the judicial and civil powers enjoyed by the village communities in the immediate pre-British period, and the regulation of their affairs, particularly their customary rights regarding the occupation and cultivation of lands, by means of a centralised judicial and revenue code and administration were bound to weaken much of their traditional hold over the members and contribute to their gradual disintegration and decay.² A society of peasant proprietors, vested with the full right of transfer of their proprietary rights in the soil but with no powers to let it out to tenants and operating on the basis of a fixed rent were the natural corollaries of the new principles.

The new principles, if fully implemented, would have brought about an 'agrarian revolution'³ in the Ceded and Conquered Provinces by destroying the aristocratic classes and effecting a complete transformation of tenures, customs, rights and privileges. The introduction of the Bengal regulations had already resulted in 'a very extensive and melancholy revolution'⁴ in the landed property of these provinces. But the new principles aimed at a still bigger 'revolution' which would have countered the effects of the earlier regulations, reversed the trends established by them and inaugurated a new rural society free from the oppression of the superior landholders. In an embryonic form, the new principles of revenue settlements were based on the radical doctrine of 'nationalisation of land', developed by James Mill in 1820 in his *Elements of Political Economy*, which played a significant role in the radical agrarian movements of the nineteenth century in the countries of Europe.

The new turn in the British land and revenue policies was only part of the more powerful forces at work, viz., English Liberalism and Utilitarianism—which were shaping the British policy in India in

¹ See Article IV, Part XXV, in *Selections from Records of N.W.P. Government*, 1856; also see *Selections from the Records of the Government of India*, Home Department, No. CLV, which contains correspondence regarding the law of land sale, Calcutta, 1879.

² '...in the North-West, they (the British) transformed to the utmost of their ability the Indian commune with common ownership of the soil into a caricature of itself.' Marx, *Capital*, Vol. III, p. 393.

³ Stokes, *op. cit.*, p. 112.

⁴ Mackenzie, Memorandum, 1 July, 1819, para. 453, *Revenue Selections (1818-1820)*, p. 98.

those years.¹ English Liberalism stood for a transformation of the Indian society and its assimilation with the British society.² English utilitarianism was directed towards the same end. And its influence spread widely through the application of the truths of classical Political Economy. It sought, not merely to provide a 'more strictly logical' programme to the Liberals but also exercised a distinct influence on the formulation of British land and revenue policies in India,³ in which the ideas of James Mill and Bentham were the principal ingredients.

Behind all these forces were the vigorous currents of change in the British economy itself. Britain, in the wake of her Industrial Revolution, had undergone an economic and social transformation for which there was the historical necessity of closer connexion with India and of rapid modernisation of her economic, social and political institutions. Simplification of land tenures was basic to this process of modernisation, which could be initiated only with the peasant playing the central role. The aristocracy as a class was not in the ascendant in England by the twenties of the nineteenth century. The rising school of liberal belief looked to the free peasant, the owner and the immediate cultivator of the soil, for agricultural progress and improvement. Consequently, radical ways were sought to simplify the land tenures of India on the lines proposed by Mackenzie.

It appears that if the new principles had been fully implemented, the pattern of agrarian relations in the Ceded and Conquered Provinces might have been very different. Whether this would have been for the better or for the worse, it is difficult to say, since British economic policy outside the field of land and revenue policy had an important bearing on the changing economic situation in the countryside. But it is idle to theorise, because the strong wave of radical policies in India broke on the bedrock of political realities, and the need to compromise with the rights of vested interests. The British authorities in India were apprehensive of the political dangers of undermining the institutions already established by earlier British regulations. Any wholesale abolition of the landed aristocracy was pregnant with dangerous possibilities. The opposition of the Calcutta English mercantile community who had close fiscal links with the natives who had invested money in land was an important obstacle in the way of carrying out radical policies. The

¹ Stokes, *op. cit.*, Chapters I and II.

² *Ibid.*, pp. 25-47.

³ *Ibid.*, pp. 47-80.

opinions and prejudices of the Bengal officers who were wedded to the principles of the zamindari settlement were also a serious bottleneck. Consequently, modifications were made in the new principles which softened their radical implications and tempered their drastic effects. All rights existing at the time of the revenue settlement—of the intermediate proprietors as much as those of the village zamindars—were guaranteed governmental protection. Later even the government's decision to fix a ceiling on the rents payable by the ryot for the duration of the settlement was abrogated. The State, instead of claiming the entire rental, decided to leave a portion of it to the private individuals also. The benefits of the limitation of government demand, on which no decision had so far been taken, were conferred indiscriminately upon all proprietors of land. Consequently, these benefits accrued to both intermediate proprietors and village zamindars. The result was a rapid rise in the value of landed property possessed by the members of the village communities.

Since the modified principles permitted the growth of rent-yielding property in the hands of individuals, many merchants and money-lenders, through various means, sought ownership of land. There were extensive transfers of land from the small village zamindars to merchants and money-lenders, and in the result, the free peasant proprietors were progressively reduced to the state of utter poverty and degradation.¹ The mutual relations of various classes in the agricultural community were vitally affected.

It is not within the scope of the present study to analyse these developments. We intend to discuss in the two subsequent chapters the modifications made in the new principles in view of the practical difficulties experienced and the final pattern of landed property and agrarian relations that emerged in 1833. The effects of these developments beyond the year 1833, which we have broadly indicated above, are thus outside our purview.

¹ These developments can be traced in the Article IV, Part XXV, in *Selections from the Records of the N.W.P. Government.*, 1856, *Selections from the Records of Government of India*, Home Department, No. CLV, containing correspondence regarding the law of Land Sale, (Calcutta, 1879), and in the numerous reports of the revision of settlement in the various districts made during the years 1854 to 1872. These references are too numerous to be mentioned separately.

Revenue Settlements Under the New Principles and Difficulties in Implementation

(i) *General Background of the Progress of Revenue Settlements*

THE NEW plan of revenue settlements came into operation with the passing of the Resolution dated 1 August, 1822, and the enactment of Regulation VII of 1822 on 8 August, 1822. However, since there was some delay in the publication of the Persian version of the regulation, which reached the Territorial Department only in April, 1824, and due to some other administrative reasons, the work according to the new plan could not start until two to three years after.

According to the new plan, the British Government embarked on a vast undertaking which embraced 'in its scope the interests of millions'.¹ It was an extensive programme of 'minute local research', which 'embraced two great branches of enquiry; first, the relation of the people to each other and to the government; and secondly, the extent of productiveness of land, including in the term all circumstances, natural or artificial, that affect its power of yielding rent'.² From the point of view of the extensive scope of the survey and the intensive character of the information sought, the programme may be compared with some of the recent large-scale rural surveys conducted in India on a national or State level.³ In a sense,

¹ Resolution, 1 Aug., 1822, para. 24, *Revenue Selection, (1822-1833)*, p. 6.

² Holt Mackenzie's Letter to the Select Committee of the House of Commons on East India Affairs, 1832, in *Report of the Select Committee, 1832*, Vol. III, Revenue, p. 298.

³ We refer to the National Sample Surveys being conducted in India regularly since 1950-51, the two All-India Agricultural Labour Enquiries conducted in 1950-51 and 1956-57, the All-India Rural Credit Survey conducted in 1951-52, the Continuous Village Surveys being conducted by the six Agro-Economic

the scope was even wider since it was a survey of not only a few randomly or purposively selected villages but of all villages in the provinces and it encompassed practically all aspects of the rural economy ranging from crop-cutting experiments in different villages (for estimating the average produce of different soils and different crops) to a detailed census of persons and cattle and the minute scrutiny of all the customs and usages in every village governing the village institutions and the rights and interests enjoyed by the various classes, the survey including a complete record of each and every field. The work was full of innumerable, almost insurmountable, difficulties. In fact, some difficulties had been anticipated by the government in its resolutions already mentioned.¹ However, these difficulties did not prevent the government from embarking on this gigantic attempt.

There was great emphasis in the new plan on details being gradually ascertained, settled, and recorded. For this very reason, laying down of general principles with regard to the settlement of many questions had been postponed until further information was available about the peculiarities of the tenures, and the rights and interests of various classes in the agricultural community in different regions. Each settlement was to be reported upon by the revenue officers through their respective divisional Commissionaires to the Board of Revenue, who were to despatch these reports to the Governor-General in Council with their own opinions and suggestions as regards the amount of the revenue assessment, the reliability of the methods of its calculation, the persons with whom revenue engagements were to be taken for future management of the estates, the classes in whose favour the benefits of the limitation of government demand (discussed in the last chapter) were to be given up, the compensation to be given to intermediaries, and many other similar questions. In turn, the Governor-General in Council had to consider the same and to take decisions on the particular settlements as well as on the general principles regarding the future management of the estates, keeping in view the considerations of

Research Centres in different regions of the country, and the Farm Management Studies recently undertaken in six States of India. In fact, these large scale surveys have been designed to collect only a very small fraction of the data which was proposed to be gathered in the course of the revenue settlements of the Ceded and Conquered Provinces.

¹ See, for instance, Resolution, 22 Dec., 1820, para. 263, *East India Selections*, Vol. III, p. 267.

political expediency and justice, and the future potentialities of expansion and improvement of agriculture in different estates, etc. All the data had then to be forwarded to the Home authorities with such decisions as might be arrived at, in order to secure their approval of the arrangements and their permission to declare the government assessment permanent.

Thus, no revised settlement could be considered final until confirmed by the Governor General and permanent until approved by the Court of Directors. In the meanwhile, the revenue settlements with existing proprietors and zamindars were to be extended for a period of five years and they were to continue to remain in engagements with the government for the collection and payment of the revenue until revised settlements could be made on their estates.¹

The results of some of the revenue settlements revised in accordance with the new principles are available in a memorandum, dated 19 October, 1826, prepared by Holt Mackenzie.² These settlements pertain to villages in the districts of Saharanpur, Meerut, Aligarh, Etawah, Gorakhpur, Azamgarh and Ghazipur.³ In his memorandum, Mackenzie reviewed the settlements, of which the reports had been received by the government at Calcutta from the Board of Revenue,⁴ village by village and suggested some general principles for settling some of the unsettled questions.⁵ As discussed in the preceding chapter, Mackenzie, in his earlier minute of 1 July, 1819, had stressed the need for a comprehensive enquiry into the rights, interests and privileges of the various classes in the agricultural community, and the Bengal Government, in its resolutions and the Regulation VII of 1822 had adopted his proposals. But now, as the details were collected and reported upon by the revenue officers, it became necessary to interpret the results and examine how the general principles he had proposed could be applied in the concrete circumstances of various estates.

From this memorandum, one finds clearly that there was a wide gap between the opinions of Mackenzie and those of the local revenue

¹ Section II, Regulation VII, 1822, in *East India Selections*, Vol. III, p. 370.

² Extracts from the Memorandum, etc., *Revenue Selections (1822-1833)*, pp. 84-202.

³ *Ibid.*, para. 2 fn., p. 85. ⁴ *Ibid.*, para. 2, p. 84.

⁵ Incidentally, while reviewing the settlement proceedings, Mackenzie had also incorporated into this Memorandum elaborate details of the village communities, their original tenures and customs, as well as the disputes and difficulties resulting from the operation of British Regulations. This document is therefore of great value for understanding the structure of village communities in the Ceded and Conquered Provinces in the early years of the nineteenth century.

officers in respect of many important points connected with revenue settlements. The local officers including the Board of Revenue found that the theoretical principles, enunciated by Mackenzie, for the determination of the net rent of any village¹ could not be applied in practice. They also showed the practical difficulties in the execution of policy on more fundamental matters like the removal of the intermediary proprietors,² fixing the rents of each occupant and each field,³ and maintaining them during the period of the revenue settlements. In fact, many of them were not favourably inclined towards these aspects of policy,⁴ as they were used to 'a long course of administration, conducted upon the principle of non-interference'.⁵ Moreover, they had pre-conceived and erroneous⁶ notions about the state of landed property in the Ceded and Conquered Provinces, which were further reinforced by the working of the existing rules and regulations, framed on the basis of these notions, and which only increased their 'unwillingness to admit new notions'.⁷ Further, there were factors like 'reluctance to confess our blunders, defective education and discipline of the European officers . . . inefficiency of government and of subordinate authorities of control'.⁸ Consequently, they had mental reservations which paralysed their will to execute, and translate the new principles into practice. They generally understood and interpreted the local tenures in their own way⁹ and as regards the parties with whom settlements should be made or the rights to be conferred upon the ryots, their views were opposed to those of Holt Mackenzie. As most of them had been familiar only with the Bengal System of revenue settlements, they were generally inclined to favour the rights of existing proprietors and maintain the *status quo*.

Against these heavy odds, Mackenzie, who was assigned a special duty to enquire into the state of affairs connected with these settlements,¹⁰ continued to advocate consistently the principles which had

¹ See, for instance, paras. 29 and 114 of the Memorandum, *Revenue Selections (1822-1833)*, pp. 91 and 107.

² *Ibid.*, para. 183, pp. 113-14.

³ *Ibid.*, para. 247, p. 118.

⁴ See, for instance, Letter of the Acting Collector of Agra to the Board of Revenue, dated 6 Aug., 1831, in *Revenue Selections (1822-1833)*, p. 319-20.

⁵ Holt Mackenzie's letter to the Select Committee on East India Affairs, 1832, in *Report of the Select Committee, 1832*, Vol. III, Revenue, p. 298.

⁶ *Ibid.*, p. 298.

⁷ *Ibid.*, p. 302.

⁸ *Ibid.*

⁹ For instance, see the letter of the Acting Collector of Agra to the Board of Revenue dated 6 Aug., 1831, in *Revenue Selections (1822-1833)*, pp. 321-22; also see George Campbell, *op. cit.*, p. 158.

¹⁰ Letter from the Western Board to the Governor General dated 7 Dec., 1830, para. 11, *Revenue Selections (1822-1833)*, p. 228.

been adopted in the new Regulation. In his Memorandum, he criticised the proceedings of revenue officers and pointed out to them their deficiencies.¹ He countered such proposals of the Western Board of Revenue which went against the new doctrines and pleaded for the vigorous execution of the policies he had already expounded.

In his polemics against the subordinate officers, Mackenzie employed once again the principles of classical Political Economy and the Theory of Rent with which he was able to silence them. In his passionate zeal to lay the foundation of a revenue administration on the classical Theory of Rent he was not daunted by the practical difficulties reported by local officers or by their prejudices. He, in fact, provided a more systematic and improved plan in his Memorandum of 1826 according to which he wanted the details of the village communities to be collected, recorded and reported.² It is unnecessary to analyse the contents of this Memorandum in detail since it was based on mere reaffirmation of the same principles, which reviewed in the previous chapter. However, on some of the important and radical aspects of revenue policy, we may notice the views and proposals which Mackenzie put forward in his Memorandum of 1826. These will enable us to appreciate better the shifts in thinking and policy which followed the departure of Mackenzie from the Presidency in 1831.

(ii) *Reaffirmation of the New Principles by Mackenzie
in his Memorandum dated 19 October, 1826*

RIGHTS OF THE REVENUE ENGAGERS

We have already seen that the notion of a *sadar malguzar* being vested with the right to absolute property was declared erroneous and was given up. The right to property in the soil was dissociated from the right to engagement for revenue and Mackenzie had suggested that it was necessary to recognise the right of all proprietors for direct revenue engagements with government. In the new settlements, the revenue officers were expected to offer the security of the right to property in the soil to all persons who were entitled to it even though they were not admitted to direct revenue

¹ Memorandum, 19 Oct., 1826, para. 252, *Ibid.*, p. 120.

² Memorandum, paras. 632-91, *Ibid.*, pp. 192-200.

engagements. In his Memorandum of 19 October, 1826, Mackenzie expressed himself more explicitly on this question as follows:

The more of these settlements, I consider, the more I am disposed to the conclusion, that, where our system of management shall not be ryotwar (more properly assameewar), where the revenue payable on the land held by each cultivator (assamee) shall not be collected from each occupant, it is essential, if we would avoid doing much harm, and creating much confusion, that the arrangement concluded with the malgoozar or government manager, should be regarded simply as a farm of the government revenue, whether the malgoozars claim, or do not claim, a permanent property in any part of the land or its produce. And as far as possible I would aim at having engagements taken by villages, the number of malgoozars to be limited as much as practicable. The malgoozari to be a life tenure, subject to the condition of good behaviour; to be generally continued in the family, but under a distinct appointment by sunnud or warrant, and not to be devisable as an hereditary property. By this means our revenue arrangements will no longer interfere, as heretofore, with the rights of the people; the interests belonging to different classes will not be disturbed by the selection of persons for the management of the Government interests, and the collection of the Government revenue; the profit, incident to this management will no longer be confounded with the rental of the proprietors. They will be applicable to purposes directly connected with the efficient government of the country; and if it enables the Government malgoozars to purchase the entire property of the lands under their management, and establishes a restricted system of primogeniture, the system will be eminently conducive to the wealth and welfare of India.¹

Thus, the person who was to be held responsible for collection and payment of government revenue was to be made a government officer, receiving a specific amount of government revenue, without having any rights or powers to interfere with or disturb the rights of the people who enjoyed proprietary or any other kind of rights in the soil or its produce according to the local custom and past usage. Mackenzie added that without some such system, the 'good

¹ Memorandum, para. 322, *Revenue Selections (1822-1833)*, pp. 125-26.

to be derived from fixing the government demand would be very questionable; and whatever sacrifices are made, the people will be beggarly and ignorant',¹ because, otherwise, the *malguzars* would appropriate the entire benefits of the limitation of government demand (in the shape of enhanced rates). He emphasised that the British 'Civil Government', without some such restriction on the powers of the *malguzars*, 'will be only tolerable in contrast to the barbarism to which we succeeded'.² Mackenzie agreed, in principle, to permit every owner of the soil to farm or engage for the government revenue of his own piece of land; but in the case of villages containing 'nearly as many owners as beegahs', taking into account the probable progress of population in an agricultural country, he felt it necessary to insist on the limited operation of the principle of admitting all owners³ and devise a system of selecting only one or a few of their representatives to engage for collection and payment of government revenue.

RIGHTS OF INTERMEDIARY PROPRIETORS

Mackenzie's antipathy for the intermediary proprietors and sympathy for the immediate cultivators of the soil came out very sharply in the settlements reported from the district of Gorakhpur. It was found in that district that the earlier temporary revenue settlements had been made with a *raja* holding extensive territories in proprietary right as understood in the former regulations. The *raja* had under him numerous villages held in *Birteea* tenure⁴ vested in the village proprietors. This tenure was deemed by the revenue officer to confer a hereditary and transferable right to property in the soil on the *Birteea* tenure holders, who had also been recognised as proprietors once before and admitted to direct revenue engagements with the government when the *raja* had refused to agree to the terms of revenue offered to him.⁵ However, subsequently, under instructions from the Board of Revenue who were sympathetic to intermediate proprietors, the *raja* was again admitted to the revenue engagements.⁶ The issue before the government now was whether to recognise the *Birteea* village proprietors as the

¹ *Ibid.*, para. 323, p. 126. ² *Ibid.*, para. 323, p. 126.

³ *Ibid.*, para. 325, pp. 126-27.

⁴ See Chapter III; also Memorandum, para. 320, *Revenue Selections* (1822-1833), p. 131.

⁵ *Ibid.*, paras. 383-85, pp. 135-38. ⁶ *Ibid.*

rightful proprietors of the soil and to settle the revenue with them, or to recognise the *raja* as the sole proprietor of the estate for which he had engaged.

Another important circumstance connected with this issue was that in Gorakhpur there was plentiful waste land yet to be reclaimed.¹ The decision on this issue turned upon the effect which the admission of either of the parties as proprietors would have on the improvement and extension of cultivation. Another complication in the situation was that the Board of Commissioners leaned in favour of the *raja* who, they believed, will invest capital in the extension and improvement of agriculture and were therefore against the recognition of the *Birteeas* as proprietors.

Holt Mackenzie countered the Board's view in the following words:

It seems to be doubtful whether, for many years at least, any considerable capital will be employed in cultivation in Gorakhpore, since improvement in that way will generally follow the occupation of all good land, and cannot well be looked for in a district where land is stated to be so abundant.²

Under these circumstances, I should somewhat doubt whether the limitation for a long period of the Government demand on the sudder malgoozars (the *rajah*) will have any sensible effect in producing an extension of tillage. On the contrary, if a long settlement with those persons shall, as it probably will, operate to prevent Government from securing very easy rates for the cultivators, it may have quite a contrary effect, since the malgoozars, where not themselves the cultivators of the soil, are, I fear, too improvident for us to trust in their moderation, even if they were as in Bengal, to have the permanent benefit of extended tillage; and it is not stated that they are likely to apply their funds to the improvement of the land. But if we trust for that improvement, as I should be disposed to do, to the exertions of the cultivators, then very easy rates, fixed for a long period, seem to afford the best means of attaining the object in view. An exemption from re-assessment for five years would probably afford an ample stimulus to industry, if it be understood that, at the expiration of that time, and for 20 to 25 years, no enhancement of rates shall take place, but, the rates remaining the same, that the Jumma

¹ *Ibid.*, para. 403, p. 142.

² *Ibid.*, para. 405, pp. 142-43.

shall be fixed with reference to the extent of cultivation. If the cultivators shall still be decided in maintaining the bhutae tenure, the rent must be adjusted accordingly for the land so held; but if the money-rates are made decidedly favourable to them, I should hope it would not be found difficult to introduce them, a change most desirable to be effected.¹

Mackenzie added that, in this context,

The question of separation (from the estates of the rajah) is one of policy, to be determined by government, not of right, to be decided by law . . . the privilege of paying into any particular treasury was never thought of under a native government as a matter at all connected with proprietary right. They established talookdars, they contracted with farmers, they granted jageers, they appointed amils, just as they pleased. Unless urged by some intolerable oppression, the village proprietors would never think of seeking to be emancipated from the control of the Rajah, nor would either party consider it a matter of stipulation, or dream of settling it by a deed of gift or sale.²

If, therefore, Government shall not see fit to adopt the principle or regarding its malgoozars of all classes as officers of Government and of the community, to be in each case selected or elected with more or less reference to property, but still subject to confirmation by the revenue authorities, it must, as was done, though not very successfully, in Bengal (and the definition will nowhere be easy), determine what species of property shall entitle the possessors of it to pay their revenue directly into the treasury of the tehseeldar or collector.³

The most liberal allowance would not nearly equal the loss which Government will sustain by continuing him (the rajah) in the malgoozaree, for not only must a large deduction be made to cover the charges of his expensive management, but the maintenance of his tenure may seriously interfere with the improvement of the country. Here, as elsewhere, the original rajahs or talookdars found in possession on our acquiring the country, and who probably gained or secured their possessions by vigour of character, may be good managers, and, if lightly assessed themselves, indul-

¹ *Ibid.*, para. 406, p. 143.

² *Ibid.*, para. 419, p. 145.

³ *Ibid.*, para. 420, p. 145.

gent to the under-tenantry. But this state of things cannot be expected to continue under a political system such as that of British India, which denies to the class in question the more elevating excitements to good conduct, and removes the apprehension of danger that might partly supply their place; which takes the motives to intellectual improvement, and diminishes the means of its attainment; which gives full scope to the love of ease and sensual indulgence among the higher classes, and affords but too many facilities to the frauds by which ignorant or improvident and voluptuous men are in all countries circumvented. It is not, consequently, wonderful that they should generally fail to discharge the duties that should attach to the administration of an extensive zemindaree, and that the gift of an uncontrolled property should have proved to most of the class a source of ruin to themselves and a curse to the people under them.¹

Mackenzie, in the course of his vigorous argument, showed that the recognition and maintenance of large landed proprietors who were mere intermediaries between the cultivators of the soil and the government was conducive neither to the fiscal interests of the British Government nor to the economic and moral improvement of the country. He clearly foresaw the way in which their accumulating wealth was likely to be spent and the disastrous consequences of such expenditure for the country. He therefore pleaded for the recognition of the right of property of the village zamindars, in preference to that of the *raja*.

FIXATION OF RENTS

As already mentioned, government demand was defined as rent, the surplus remaining after the wages of labour and profits of stock were deducted from the gross produce of agriculture. In order to assess the amount of its revenue, government had resolved to settle the rates of rent whether in money or in kind, in the case of every field, for various crops, after taking into account the differences in the quality of the soil, the facilities of irrigation and marketing, the caste composition and other circumstances of the actual cultivators. Moreover, after ascertaining and settling these rates of rent and recording them, the government had also resolved to declare

¹ *Ibid.*, para. 421, pp. 146-47.

these rates of rent as fixed for the period of the settlement.¹ Fixity of rent-rates was designed to protect the cultivators from the rapacity of the *malguzars* and to provide an incentive for the extension and improvement of cultivation by the village zamindars (cultivating proprietors) and other kinds of cultivators.

In the light of the information gathered in the course of revised settlements, it was found necessary to determine the principles on which the rates of rent were to be fixed on the different classes of soils after making allowance for all the other circumstances which had a bearing on agricultural productivity. The variety of tenures prevalent in different districts and in different estates required a certain degree of flexibility in the application of the broad principles to the individual cases. The local revenue officers in general failed to grasp the full significance and implications of the theory of rent and lacked the ability to apply it to the concrete problems of revenue settlement. Consequently, their proceedings were thoroughly analysed by Mackenzie and he explained to them the future consequences likely to flow from the measures adopted by them. In his Memorandum of 19 October, 1826, he explained these points with much greater theoretical precision and deeper insight than in his earlier Memorandum of 1 July, 1819. With regard to the fixing of rates of government assessment, Mackenzie wrote:

‘... the first point for consideration (in the fixation of rates of assessment on land) ought always to be how far the rates on which a settlement is proposed to be made are such as to leave a fair profit to the cultivators, and to make the occupancy of the land for a term, or in perpetuity, a valuable interest.’²

Until time and fixed and moderate rates shall have given substance to the cultivators, and shall have inspired them with confidence in the permanence of their tenures... it seems... that cultivators would not generally undertake to cultivate specific parcels of land without a considerable abatement in the rates of rent; because, though the cultivation may be profitable, they are

¹ ‘... it has been the practice to attempt to secure the interest of the cultivators by granting pottahs for the period of the settlement to every ryot excepting the pykhoost assamees, ... in conformity with the Resolutions of Government under date the 16th Sept., and 22nd Dec., 1820, and 1st Aug., 1821...’ Letter of the Collector of Agra, dated 6 Aug., 1831, in *Revenue Selections (1822-1833)*, p. 319.

² Memorandum, para. 437, *Ibid.*, p. 151.

not prepared to bind themselves to cultivate under all circumstances. Gradually the apprehensions which would deter them from the undertaking will ease, if care be taken to so regulate rates as to make the cultivator's tenure profitable.¹

While advocating the theory of rent as the basis of revenue assessment, Mackenzie, however, did not ignore the concrete circumstances which may influence the actual rent of specific parcels of land. So, he cautioned against an unthinking application of the theory by the revenue officers in the following words:

If the schedule of rates be formed, on an estimate of produce, it is very probable that some abatement shall be requisite, in order to provide for the contingencies on which the actual produce must depend. And further, it must always be recollected that rates, though moderate when assessed only according to cultivation, under circumstances which leave to the cultivators a choice of land, or the power of changing it, may be found too high when applied to specific parcels of land; in other words, we must not look only to the average produce during a course of seasons of the articles cultivated at the time of the settlement, but to the rotation of crops and to the occurrence of fallows.²

Thus, Mackenzie was fully aware of the technical peculiarities of agriculture which had to be taken into account while calculating the rent of any particular parcel of land.

FIXITY OF RENTS DURING THE PERIOD OF SETTLEMENT

Similarly, on the question of fixity of the rents for the period of the settlement, an objection was raised by one of the revenue officers, Mr. Reade, that if the rents of lands were fixed in perpetuity or for a term of years, and the cultivators were given a right to property independently of the will of the revenue engager,³ they would not agree to till a specific area of land of *all* qualities. They would prefer to cultivate only the best lands of which the productivity was the highest and from which the profits were the maximum.

¹ Memorandum, para. 512, *Ibid.*, p. 157.

² Memorandum, para. 533, *Ibid.*, p. 170; also see para. 514, *Ibid.*, pp. 157-58.

³ Memorandum, para. 524, *Ibid.*, p. 160.

But if they cultivated only the best land and not also a proportion of the bad land as well, the government revenue was bound to suffer.¹

Holt Mackenzie countered these opinions of the subordinate revenue officers in the following words:

It can never be desired to force the application of labour and capital to land which yields no adequate return; and I should say, if there were any rules or practice leading to such a result, that the sooner it is done away the better; at least we should do nothing artificially to maintain it. I suspect, however, that where labour has been free and population abounds, all apprehension of loss from the desertion of inferior soils must be unfounded. Particular fields may not appear to yield a profit, taken by themselves, and yet it may be profitable to the occupants to cultivate them, to employ stock and labour that would otherwise be unemployed, or for some other advantage; and if such fields are cultivated while all the land is at the disposal of the malgoozars, it is not easy to see why they should cease to be so if the cultivators were vested with a subordinate property, through the issue of pottahs, or the establishment of rates, for a term of years or in perpetuity. Rather than really cultivate at a loss, for the sake of getting the more valuable kinds of land, the ryots would naturally have offered higher rents for such lands, and the zemindar can gain nothing by imposing on the cultivator a losing speculation (inferior land), to make up for inadequate rent on the profitable lands. On the whole I should conclude that the lands held by whom they may (not under a system of forced labour) none are cultivated that do not yield a profit; and that we may safely leave inferior soils to the natural operation of the monopoly of the superior kinds, which must equally exist whether they are held at the will of the zemindars or ryots.²

He further added:

From fixed and easy rates, indeed, and the security thence resulting to the general body of cultivators, I should expect such an increase of agricultural wealth as would tend to the extension of cultivation

¹ Memorandum, para. 525, *Ibid.*, p. 160.

² Memorandum, para. 526, *Ibid.*, p. 161.

with a rapidity like which nothing is to be looked for under any system that shall leave the ryots subject to arbitrary demands by persons so greedy and shortsighted as most of our malgoozars will, I fear, prove to be.¹

Thus, Mackenzie rebutted the arguments of local revenue officers by invoking the universal principles of political economy and relying on the extension of agriculture through the operation of the usual economic forces. He, in fact, stood for the abolition of all restraints which might compel the cultivators to cultivate such lands as were not likely to yield profit. He assumed that so long as land was not cultivated by forced labour and labour was free to choose the extent and particular parcels of land (as was the case under Indian land tenures according to him), no land which did not yield a profit after meeting the charges of labour and the government's revenue demand would be brought under cultivation. With the growth of population and increasing demand for food and agricultural raw materials and with the superior soils already brought under cultivation becoming relatively scarce, tillage was bound to extend to inferior soils. Mackenzie desired that this process should be allowed to proceed uninterruptedly. He thought that in this context, it was irrelevant whether the land was owned by an intermediary proprietor or by the cultivator himself, since the natural economic process was bound to work itself out in any case. If the rates of rent were liberal the cultivators would extend the tillage very much more than under the regime of intermediary proprietors. Mackenzie's distinction between superior and inferior soils and their differential advantages as regards profits was directly derived from the theory of rent and his belief in the forces of competition emanated from the very fundamental hypothesis of classical political economy.²

RIGHTS OF VILLAGE ZAMINDARS VS. RIGHTS OF OCCUPANCY OF CULTIVATORS

Another very crucial practical question that arose in connection with the fixity of rent rates during the period of the settlement was

¹ *Ibid.*

² There are numerous examples of the application of the laws of political economy to the concrete circumstances of the village communities by Holt Mackenzie in his Memorandum, 19 Dec., 1826, for instance, see *Ibid.*, paras. 589-94, pp. 179-81.

whether such an arrangement would tend to restrict the rights of such village zamindars as were not cultivating proprietors at that time and on whose lands other cultivators could be settled. The problem was whether a valuable tenure created in favour of the cultivators by fixing easy rates for them and leaving them fair wages and profits of stock was consistent with the valuable tenure of the village zamindars who were entitled to receive a share of the rental which the government had decided to leave them. On this question, Mackenzie wrote as follows:

The different parceners, though at present out of possession, having a right of occupying their hereditary share, and of cultivating according to their means, subject to the payment of a quota of the Government demand and village expenses, their pretensions are not easily reconciled with the plan of giving fixed tenures to the ryots; and it would be no easy thing to maintain the latter against the wish of the former, in whom the management of the village's concern is vested. In such cases, the main object is to settle the rights of the parceners and the boundaries of the village, and to take care that the Government demand is not excessive. But probably there will not be much difficulty in maintaining for a term the rates fixed for the ryots, if the Government assessment leave a considerable net rent to the proprietors, and if the mode in which all parceners are to share be carefully defined, and, at all events, the rates should be fixed, and all decisions passed accordingly, until it shall appear that they have been altered by regular agreement. It is not, indeed, in any case desirable to create a right of occupancy where it clearly does not exist. It is sufficient to provide the means of preventing arbitrary exaction, by defining the rates on which the land is held at the time of settlement, and recognizing those rates as the basis of all agreements not otherwise defined. And further, whenever it can be done without interfering with the institutions of the country (as in the case of all lands owned by persons not themselves cultivators), the term of the cultivator's leases, or at least of the rates, according to which they are to cultivate, should be made co-extensive with that of the settlement; or where the settlement may be in perpetuity, leases should be granted on the rates fixed for a long period.¹

¹ Memorandum, para. 528, *Ibid.*, p. 162.

Mackenzie added:

If in any case such an arrangement shall appear to restrict the rights vested in the zemindars, the occasion of a settlement will afford abundant means of making compensation. But it is probable that if the Government assessment be light, no dissatisfaction will be created by any orders that may be issued regarding the ryots, and wherever the cultivators have such a tenure as that causelessly to oust them would be felt and regarded as an act of violence, which, in the general sentiment, it would be proper for the Government to prevent (all the sunnuds of former rulers show that in theory at least the protection of the cultivators from arbitrary exaction was enjoined), there, though we may look in vain for the evidence of a legal property in the strict sense of the word, I would recognize, as one of the conditions of the settlement, a right of occupancy at the rates assessed by the Government officers, avoidable only on default, by the decree of a judicial tribunal.¹

What Mackenzie says in defence of the right of occupancy and of fixed rates of rent for the cultivators has a surprisingly modern note. In fact, he seems to have been dealing, as far back as one hundred and thirty years ago, with the same problems which we have been facing today, in a surprisingly similar manner and on exactly similar considerations.

However, in spite of his most powerful and lucid exposition of the new principles of revenue settlements and his illustrations of how the theory of rent could be applied to the concrete circumstances of the village communities in the Ceded and Conquered Provinces, the task of putting the new principles into practice proved to be extremely difficult. The obstacles were far too many and formidable, and ultimately proved insurmountable and it became necessary to modify them, as we have explained below.

(iii) Failure of the New Principles and the Consequent Need for Modifications

The new plan of revenue settlements had been in operation for hardly eight years when it was declared to have failed to attain the

¹ Memorandum, para. 529, *Ibid.*, pp. 162-63.

objects of Regulation VII of 1822.¹ Need was, therefore, felt to modify the regulative principles laid down under the new system.²

The symptoms of failure became manifest from the 'little progress' made in effecting the settlements in the manner prescribed³ in the said Regulation. It had been fully anticipated that the progress of settlements on the new lines would be very slow and would be accomplished in a long course of years.⁴ This fact had also been communicated to the Court of Directors.⁵ Nevertheless, only after eight years, it was felt that the progress had been tardy and that it was necessary to modify the system.⁶

During this period, settlements had been revised only in the case of a very small number of villages⁷ in various districts. Moreover, none of these settlements, with the exception of a few in Bareilly and Meerut Divisions, was confirmed by government, because the operations were found to have been inadequate and incomplete in many respects,⁸ as was pointed out by Mackenzie in his Memorandum of 19 October, 1826, mentioned earlier. According to the local revenue officers, the revision of settlements according to the new principles in all the villages of their respective districts was likely to take a long time.⁹ Consequently, it became evident that 'the settlement of the country under Regulation VII of 1822 cannot proceed with sufficient rapidity to answer all the purposes contemplated by government.'¹⁰ There was therefore need to adopt some other course of proceeding or to modify the plan with a view to expediting the progress of revenue settlements.

¹ Governor General's Minute, 20 Jan., 1832, para. 43, *Revenue Selections* (1822-1833), p. 364; also see Stokes, *op. cit.*, p. 101; also see letter of Governor General, 15 Sept., 1831, to the Court of Directors in *Report of the Select Committee*, 1832, p. 298; also see Governor General's Minute, 26 Sept., 1832; para. 62, *Revenue Selections* (1822-1833), p. 407.

² Governor General's letter to Board of Revenue, 7 April, 1831, para. 68, *Revenue Selections* (1822-1833), p. 252.

³ Letter of Governor General, 7 April, 1831, *Ibid.*, p. 235.

⁴ Resolution, 1 Aug., 1822, para. 73, *Revenue Selections* (1822-1833), p. 7.

⁵ Revenue Letter to Court of Directors, 28 Dec., 1821, *East India Selections*, Vol. III, p. 286.

⁶ Governor General's Letter to Board of Revenue, 7 April, 1831, paras. 75 and 77, *Revenue Selections* (1822-1833), pp. 253-54.

⁷ Minute of Governor General, 20 Jan., 1832, *Revenue Selections* (1822-1833), p. 365.

⁸ *Ibid.*

⁹ *Ibid.* Some revenue officers indicated the probable time required for settlement of their districts to be as long as sixty years.

¹⁰ Letter of Governor General, 7 April, 1831, para. 3, *Revenue Selections* (1822-1833), p. 235.

INFLUENCE OF AN ADVERSE ENVIRONMENT

The slow progress of settlement operations was the result of a complex variety of causes. It was ascribed by some authorities 'to the want of precise instructions which should regulate the proceedings of the revenue officers in the conduct of the Native Surveys, and in collecting materials for the formation of settlements'¹ and by others, to the necessity of preparing 'statements embracing the most minute particulars which while they were not essential to an accurate development of the resources of the country, involved vexation to the people and impeded the progress of the settlements'.² But these reasons did not explain the whole situation. The causes of failure were many and much more fundamental.

Some of these causes were inherent in the environment in which the new principles were sought to be put into practice. The administrative organisation of the Bengal Presidency had so far been based on a different set of principles. The revenue and judicial officers had been long used to administration conducted upon the principle of non-interference. No attempt was ever made either to assess the government revenue on the basis of the theory of rent or to settle the rights and interests of various classes in the agricultural community by adjusting their disputes. The public service was, therefore, not only numerically small, but also without a cadre of officers who could overcome the formidable obstacles (noticed below), in the way of successfully completing such a great undertaking.³ According to Holt Mackenzie, not only were the officers ignorant of the circumstances of the country, and lacked even a suitable terminology with which to comprehend the wide variety of the complex and entangled tenures of the village communities, but they had also deep-seated pre-conceived notions. They were reluctant to confess the mistakes which they committed in making the revenue settlements in strict conformity with the theory of rent, while their whole education and discipline was inadequate for a successful completion of the enquiry launched by the government.⁴

¹ Letter of Governor General to Court of Directors, 15 Sept., 1831, in *Report of the Select Committee 1832*, Vol. III-Revenue, Appendix p. 298; also see letter of the Board of Revenue dated 25 May, 1831, *Revenue Selections (1822-1833)*, p. 284.

² *Report of the Select Committee, 1832*, p. 198.

³ Holt Mackenzie's Letter to the Select Committee, *Ibid.*, p. 298.

⁴ Holt Mackenzie wrote: 'The causes of failure have been many: the vastness of the country, our ignorance of its circumstances, inaccuracy of language, and

In an unfavourable environment and with such an inadequate and unreliable cadre of public officers, it was naturally difficult for the British Government to complete such a vast operation in a short, or even a fairly long, period of time. In fact, the Governor General, Lord William Bentinck, categorically declared that there was ground for the apprehension that it cannot be so expeditiously accomplished as there was reason to hope.¹ But apart from the antecedents of Bengal administration and its officers, there were several objective difficulties faced by Bengal officers. They related these objective difficulties to two aspects of their work, viz., the assessment of government demand on the basis of the rent-yielding capacity of various soils, and the adjustment of disputes between different classes of the agricultural community. These difficulties may now be examined in order to have a better appreciation of the failure of the new principles in practice.

DIFFICULTIES IN THE APPLICATION OF THE THEORY OF RENT TO THE METHODS OF REVENUE ASSESSMENT

One important difficulty was the assessment of the government demand on the basis of a classification of soils according to their productive powers and the estimation of the 'net produce' of different fields by ascertaining the gross produce and deducting therefrom the profits of husbandry.² It was not practicable to classify the soils, to estimate its gross produce or to determine the expenses and profits of cultivation of various crops. Most revenue officers reported their inability to classify soils according to their productive powers,

erroneous notions and principles originating in that ignorance, unwillingness to admit new notions, reluctance to confess our blunders, defective education and discipline of European officers, separation of judicial and revenue branches of the service, inefficiency of government and of subordinate authorities of control, misuse of patronage, unjust usage of native officers, their interest to thwart us. . . ' *Report of the Select Committee*, Vol. III—Revenue, p. 302; also see p. 298; also see Stokes, *op. cit.*, p. 102.

¹ Governor General's Letter to Board of Revenue, 7 April, 1831, para. 70, *Revenue Selections (1822-1833)*, p. 253.

² '... To presume that the European officers of this Government who have no direct connection with agricultural operations, are qualified to assess the rent of every field in a village, by classification of soil and nice calculations of average produce and prices, even though the extent of stock and personal means of each ryot, which should have some influence at least in such matters, were known, is, in our opinion to presume that, in support of which neither the actual results of the experiment nor the fair deductions of reason can be adduced.' Letter of Board of Revenue, 25 May, 1831, para. 20, *Revenue Selections, (1822-1833)*, p. 276.

to ascertain profits of husbandry and consequently to convert gross produce into 'net produce'.¹

Most of them reported that the productive powers of the soils even of the same quality vary greatly owing to their situation, the facility of irrigation available,² and their varying capacities to benefit from irrigation.³ Infinite variations in the productive powers of the soils were also caused by the differences in the degree of industriousness of different classes of persons who cultivated them.⁴ The same piece of land, if cultivated by a *koormee* or a *kachee* cultivator, yielded much more than when it was occupied by a *Rajput*, *Ahir* or *Chamar* cultivator.⁵ With such an infinite variety in the real and potential productivity of different soils, it was naturally difficult to determine the government assessment on the basis of calculation of 'net produce'.

Even Holt Mackenzie, in later years, after his departure from the Presidency, agreed that this difficulty was a real one when he said that

. . . the foundation of the proposed assessment was an estimate of the expenses and proceeds of husbandry; and so far the principle might seem to be simple. Its application, however, under the various circumstances which the different districts and divisions of districts present to the inquirer, is far otherwise. And scarcely any one appears to have succeeded in making such an estimate as will satisfactorily stand the test of examination, as a ground-work for the revenue arrangements proposed by him. In truth, when one comes to look narrowly into the matter, it must apparently be admitted that success in assessing individual holdings, not to say fields, upon an estimate of produce, and cost, could not reasonably be expected, however useful such estimates might be as a check and scale of comparison. For though in some parts of the country an uniform soil, with equal facility of irrigation possessed by cultivators, resembling each other in their numbers, characters, and circumstances, and divided into farms of no great variety of size, might facilitate the ascertainment and application of the necessary facts, such is not the general condition of things. In most places,

¹ See Minute by Governor General, 20 Jan., 1832, *Revenue Selections* (1822-1833), paras. 48-50, pp. 367-71; also see in this connection the Correspondence of the Board of Revenue with local officers in *Revenue Selections* (1822-1833), pp. 269-349; particularly see the letter of R. C. Glynn, 24 May, 1831, pp. 295-96; also see pp. 323-24 and 335-36.

² *Ibid.*, para. 50, p. 368.

³ *Ibid.*, para. 52, p. 368.

⁴ *Ibid.*, paras. 51, 52 and 53, pp. 368-69.

⁵ *Ibid.*

striking variations occur within very short distances. Prices, depending on the general supply, do not by any means follow the rule of local failure or abundance. Prejudices are as local in their existence as vegetables in their growth.¹

It was thus clear that in the prevailing circumstances the utmost that the revenue officers could do was to adopt 'past payments'² or the 'rents actually paid by cultivators to the Government'³ and other general considerations as the basis of assessments. They relied more on their 'sound pragmatic judgement' than on the theoretical criteria of the doctrine of rent laid down in government resolutions.

DIFFICULTIES IN THE ADJUDICATION OF RIGHTS OF VARIOUS CLASSES

The more important difficulties were however those connected with the ascertaining, recording, and settling of the rights of various classes. The new principles were so framed as to enable the revenue officers to conduct their enquiries 'on the spot, village by village, proceeding upwards from the persons who tilled the land to the Government itself, and noting distinctly all the classes who shared in the produce or rent of land, the extent of interest of each, and the nature of title by which it was held'.⁴ It was declared as a policy of the government to afford protection to all these rights, and 'to provide by distinct rules, for the maintenance of the rights and properties of all such classes, until legally transferred, renounced or defeated'.⁵ But as we have seen in the earlier chapters, the rights of the various classes had been considerably modified by the impact of the British regulations during the first two decades of the British rule. Many persons had been admitted as proprietors of the lands for the revenue of which they had engaged and their rights of property had been effective in law ever since the establishment of the British rule. Countless money transactions had been effected on the basis of these rights and the 'relations and feelings of millions of individuals',⁶

¹ Holt Mackenzie's letter to the Select Committee of the House of Commons on East India Affairs, 1832, in *Report of the Select Committee*, 1832, Vol. III, p. 301.

² *Revenue Selections (1822-1833)*, p. 367.

³ *Ibid.*, p. 368.

⁴ Letter of Court of Directors, 29 Sept., 1824, cited in Governor General's letter to Board of Revenue, 7 April, 1831, para. 64, *Ibid.*, p. 250.

⁵ Resolution, 1 Aug., 1822, para. 62, *Ibid.*, p. 17.

⁶ Governor General's Minute, 20 Jan., 1832, para. 10, *Revenue Selections (1822-1833)*, p. 354.

gradually became connected with these rights and dependent on their continuance. Those who had acquired heritable and transferable rights of property in the soil had become used to enjoying the new benefits that were conferred on them and to exercising their new powers of 'regulating occupancy and appropriating rent'. Over large areas in different districts, the rights of the village zamindars, resident ryots and the other members of the village communities under them had been gradually eroded giving way to the rights of 'absolute property in the soil' vested in the new proprietors.

Consequently, the application of new principles turned out to be of the nature of a bold attempt to reverse the trends in the development of agrarian relations, which had been established as the result of enforcement of earlier laws. Naturally, the promulgation of the new regulations, which affected the validity of all tenures retrospectively, created a great deal of uncertainty and suspense in the minds of the existing proprietors¹ about the amount of assessment that was to be levied and about the extent of rights that were ultimately to be vested in the various classes settled on their estates. They naturally reacted adversely to the new principles of revenue settlements and offered resistance to settlement proceedings. They especially disliked the government's 'general intervention in support of the ryots' and its policy of fixing the rents of cultivators by granting them *pottahs*.² They also resented the restrictions on enhancement of rents for the period of the settlements. With their influence on the native revenue officers who were the principal media of communication between the people and the British authorities, they made it difficult for the British officers even to find out the real truth regarding the rights and privileges of the various classes in the agricultural community. For instance, they were able to impress upon the local officers that the granting of *pottahs* for the whole period of the settlement was 'an arbitrary encroachment' and tantamount to 'infringing on the long-established rights of the zemindar' and that the 'cultivating ryots have no right of possession' in proprietary estates.³ The processes of law afforded them ample opportunities to thwart the progress of settlement operations by pleading various objections against the proceedings of revenue officers.

A corroboration of these difficulties is found in the Letter of Holt

¹ Letter of the Collector of Saidabad, 25 July, 1831, *Ibid.*, p. 337.

² Letter of the Acting Collector of Agra, 6 Aug., 1831, *Ibid.*, p. 320; also see the letter of the Collector of Saidabad, 25 July, 1831, *Ibid.*, p. 334.

³ Letter of the Collector of Saidabad, 6 Aug., 1831, *Ibid.*, pp. 334 and 338.

Mackenzie to the Select Committee on the Affairs of East India, 1832. Mackenzie wrote:

The causes of failure are nearly the same . . . the most powerful being the resistance of the persons to whom our contracts have given an almost uncontrolled power of lording it over the community; their great influence with our subordinate functionaries . . . and the unjust and foolish disregard of the means necessary to call forth the exertions, and ensure the cooperation of the natives.¹

Apart from these difficulties, much time was also taken by the settlement of disputes and the adjudication of rights which were an integral part of the settlement operations under Regulation VII of 1822. The conflicting claims of different parties, particularly of those recognised as proprietors by existing regulations, and the difficulties in the way of revenue officers in ascertaining the truth or falsehood of these claims, caused further delay and undermined the morale of the revenue officers.

DIFFERENT VIEWS ON THE POLICY AS REGARDS RIGHTS OF INTERMEDIATE PROPRIETORS AND THE POLICY OF FIXING RENTS OF CULTIVATORS

These circumstances only aggravated the 'disinclination to an active and zealous prosecution' of the work in the case of most revenue officers. The process of 'adjudication of a great variety of complex and conflicting rights' became tedious in the extreme.² It became virtually impossible not only to settle the numerous disputes that arose in the course of settlement operations, but also to comprehend precisely the nature of rights and interests of the various classes. Their own notions of proprietary rights, derived either from the earlier laws or English institutions also prevented the British revenue officers from understanding and clearly defining those rights.³ They were, therefore, inclined to assess the land tenures

¹ *Report of the Select Committee*, 1832, p. 303.

² Governor General's letter to Board of Revenue, 7 April, 1831, para. 81, *Revenue Selections (1822-1833)*, p. 255.

³ One of the revenue officers, for instance, candidly declared that the rights and privileges to ascertain which the British officers were prosecuting minute and laborious investigations, 'however perfectly well understood by those who are in possession of them, are not always very susceptible of a clear and accurate analysis'. Letter from W.B. Martin to the Governor General, 31 May, 1831,

in the light of their own opinions and to accept the misrepresentations of the interested proprietors. They preferred to take the rights and privileges of various classes as they appeared on the surface,¹ and did not like to go into all the past antecedents of any particular type of tenure. Since, for the last two decades, rights and privileges had begun to be understood in accordance with British laws and regulations, they saw no purpose in the adjustment of rights on the basis of the theory that no intermediary proprietors should be permitted to function between the government and the cultivators. Consequently, they did not fully accept either the views of Mackenzie regarding the nature of land tenures in the Ceded and Conquered Provinces or the need for ascertaining, settling and recording them in the same manner and with the same degree of minuteness and thorough investigation as had been suggested by Mackenzie and recommended in government resolutions.

Further, they also disapproved of the policy of fixing the rents of cultivators on the estates of recognised proprietors because, in their opinion, it was not consistent with the 'admitted right of absolute property' vested in the proprietors.² They also found that the cultivators whose rents were fixed by them and who were given *pottahs*, 'in most cases, become objects of dislike to their landlords, who sooner or later, will either induce them to give up the obnoxious document, or ruin them by some easier method'.³ They reported that since the ryot could not do without the financial assistance given by the proprietor, if the latter be the *bohara* (money-lender) of his own village, the result

Revenue Selections, (1822-1833), p. 290. Another revenue officer wrote as follows on this aspect of his difficulties, 'Nothing is so easy as to direct that regard shall be shown to local customs, but to ascertain those unquestionably, where adverse interests exist, where testimony of any description is readily procurable and where the medium of communication is too frequently corrupt is the task; and especially where these are to control the written law of the land, their determination becomes a matter of great labour, great nicety and subject to the greatest risk of error and injustice. Under such procedure there is a separate law for each family. No definite principle of decision exists, no fixed number of successions determine the rule, and as the sentiments of succeeding collectors may differ as to that which constitutes an established usage, their decisions will be frequently at variance, and are pregnant with uncertainty and discontent.' Letter of the Acting Collector of Agra to the Board of Revenue, 6 Aug., 1831, *Revenue Selections* (1822-1833), p. 312.

¹ See an instance of this kind in the letter of the Acting Collector of Agra to the Board of Revenue, 6 Aug., 1831, *Revenue Selections*, (1822-1833), pp. 319-22. The Collector wrote candidly, 'I adhered to my own view of the intentions of Government.'

² See Letter of the Acting Collector of Agra dated 6 Aug., 1831, *Ibid.*, p. 320.

³ Letter of the Collector of Saidabad to the Board of Revenue, 25 July, 1831, *Ibid.*, p. 334.

will be that he will make the relinquishment of the *pottah* the condition of support but with the disadvantage to the ryot of the interruption of all the kindly feelings which originally connected him with the proprietor'.¹ In view of this difficulty 'to enforce a strict and effectual compliance',² of the *pottahs* issued by them, and the bad blood created between the proprietors and the tenants, the revenue officers began to doubt the expediency and desirability of fixing the rents and maintaining them without enhancement during the period of the settlements. They in fact came to the conclusion that since the ryots were scarce relatively to the land, they could 'defend their own interests'³ and needed 'no *pottahs* from the collector'.⁴ It was pointed out that 'an ill-used ryot revenges himself by throwing up his lands at the commencement of the rains, and seeks employment elsewhere'.⁵ They also argued that mutual feelings of self-interest bring these matters to their level almost without the interference of the revenue authorities.⁶ Consequently, they saw no need to fix the rents of ryots. This was evidently diametrically opposed to the spirit of the Regulation VII of 1822.

As a result of these numerous factors in the situation, there was a sharp cleavage of opinion amongst the officers of the local government on the subject of land tenures and the rights to be protected,⁷ as we shall explain in the next chapter. For the time being, however, there was confusion. The authorities at different levels did not think alike and the Board of Revenue failed to provide necessary guidance. In fact, members of the Board even refrained from making

¹ Letter of the Acting Collector of Agra to the Board of Revenue, 6 Aug., 1831, *Ibid.*, p. 321.

² *Ibid.*, p. 320.

³ *Ibid.*

⁴ *Ibid.*

⁵ Letter of the Collector of Saidabad, 25 July, 1831, *Revenue Selections (1822-1833)*, p. 335.

⁶ *Ibid.*

⁷ 'Great scope... was left for individual discretion, and... individual prejudices were carried a long way in one direction or other. Much difference of opinion and many official battles have resulted... As it is, there has generally been (as in most matters in which Englishmen are concerned) an aristocratic party and a party of the people; a party which would give as much as possible to the rich and gentlemenlike natives, the descendants of ancient rajas or sons of modern farmers-general, and trust them to rule the people; another, which, considering that it is our function to protect the people from the tyranny of native rulers, would give as much as possible to the people, and restrict the aristocracy to their actual rights. Either course is possible under the law, for by putting the people to the proof, and giving them no more than they can prove a right to, all the rest falls to the aristocrats; by putting the aristocrats to the proof, and giving them no more than they can prove a title, there is ample room to give the people very large rights.' George Campbell, *op. cit.*, p. 158.

any comments either on the settlements made by various revenue officers or on the persons with whom engagements for payment and collection of revenue were to be taken.¹ Since their views on the state of landed property were somewhat different from those accepted in Regulation VII of 1822, they held different opinions on the manner in which the settlements should be conducted, which they found difficult to enforce so long as the instructions of the government communicated in its resolutions and the Regulation VII of 1822 were not modified or altered.

NEED FOR MODIFICATION OF PRINCIPLES ADOPTED UNDER REGULATION VII OF 1822

The upshot was that the progress of revenue settlements under Regulation VII of 1822 until 1830 was very slow, and the need was felt for modifying its principles. The reasons for slow progress were gone into and it was also considered whether it was expedient to deviate from some of the principles of settlement in order to ensure expeditious settlement. Lord William Bentinck, who came to India as Governor General in 1828, was the first to discuss these questions. He addressed the Board of Revenue asking them to furnish details of the progress that had been made in the different districts and of the causes which had impeded it.² Thereafter, he undertook a tour of the Western Provinces, and had personal conversations with local officers on the numerous problems they faced.³ On the basis of his findings, he wrote an elaborate letter to the Board of Revenue⁴ explaining his views on the measures which could be undertaken to increase the revenue of the government and remove the feeling of uncertainty which had gripped the minds of the proprietors during the period in which the detailed investigations were completed. He also elicited the opinions of the Board of Revenue and local revenue officers on various questions connected with the revenue settlements, including their views on the nature of tenures found in their respective divisions, constitution of the village communities, and the

¹ Mackenzie's Memorandum, 19 Oct., 1826, paras. 3, 35, 90 and 92, *Revenue Selections (1822-1833)*, pp. 85, 93 and 104.

² Letter of Governor General to the Board of Revenue dated 13 July, 1830, *Revenue Selections, (1822-1833)*, pp. 203.

³ Letter of Governor General to the Court of Directors, 15 Sept., 1831, para. 3, *Report of the Select Committee, 1832*, Vol. III—Revenue, Appendix, p. 298.

⁴ Letter of Governor General to the Board of Revenue, 7 April, 1831, *Revenue Selections (1822-1833)*, pp. 235-67.

relative rights of the members, and the nature of rights to be protected by government.¹

During these discussions, basic differences which had existed between the Board of Revenue and the resolutions of the Supreme Government came to the surface. It was found that the slow progress of revenue settlements was partly a result of the conflict of opinion at various levels.² This conflict related not merely to the details of how the revenue settlements were to be made but also to the nature of existing land tenures and land rights which ought or ought not to be protected.³ It involved the Board of Revenue and the local officers. They generally disagreed with the views adopted by Holt Mackenzie regarding the rights of malguzars, intermediary proprietors and their subordinate tenure-holders, as well as the principles governing the fixation of the rates of rents for each field during the period of settlement. On the contrary, they stuck to the notions connected with the Bengal Permanent Settlement, and looked at these questions from the practical angle of the revenue administration.

These discussions were protracted over a period of about three years from 1830 to 1833 during which there was once again *ex post facto* analysis of all the past proceedings.⁴ The objectives of the earlier regulations and the intentions of former governments in Bengal as well as of the Home authorities were once again reinterpreted. Elaborate minutes and memoranda were once again drawn up. Controversy arose on many points of detail as well as on basic principles.

Lord William Bentinck was generally the final arbiter on most questions in these discussions. It appears from the documents written by him on the subject of the settlements, (viz., Letter to Board of Revenue, dated 7 April, 1831, and Minutes of 20 January, 1832, and 26 September, 1832), that he was largely guided by the views of the Board of Revenue in the formulation of his own approach to the question of rights of various classes to landed property. Generally, he seems to have been influenced, like the Board,

¹ *Ibid.*, paras. 124-25, pp. 265-67.

² It was during these discussions that many difficulties, which had retarded the progress of revenue settlements, came up for detailed analysis.

³ See Letters of Board of Revenue to the Governor General, in *Revenue Selections (1822-1833)*, 3 Sept., 1830, pp. 203-08, 7 Dec., 1830, pp. 224-28, 25 May, 1831, pp. 269-86, and 22 July, 1831, pp. 297-304; also see the correspondence between the Board of Revenue and the local revenue officers, *Ibid.*, pp. 305-49.

⁴ See particularly Letter of Governor General, 7 April, 1831, paras. 17-66, *Ibid.*, pp. 237-52.

more by an empirical view of the state of things as they existed rather than by the principles derived from the theory of rent. He seems to have been more concerned with the requirements of practical administration than with the rigorous application of any particular theory. He tried to reconcile the differences of opinion on numerous questions at various levels amongst the revenue officers and in the Bengal Government. But, in the process of such reconciliation, he tried to establish a compromise which, on the one hand, maintained the fundamental principles which had been already adopted in the settlements prior to 1822 and, on the other, reconciled them with the general objectives contemplated in Regulation VII of 1822. This was sought to be done in a manner that did not mean too much interference with the rights of existing proprietors and did not involve such elaborate calculation of the assessment of government revenue as was laid down by the 1822 Regulation.

Such compromise involved, however, a basic modification of the principles and policies adopted in Regulation VII of 1822. The benevolent intentions of concluding a 'nearly ryotwar' settlement in the Ceded and Conquered Provinces, under which the rents and rates of each field would be fixed and the record of rights of each occupant would be prepared, were given up. The rights of the existing 'contractors of revenue' which were considered as identical with those of proprietors were maintained. The plan of compensating the 'intermediaries' and establishing a direct relationship with the village communities in all *mehals* had to be sacrificed.

Lord William Bentinck did succeed in formulating a plan of revenue settlement which was both acceptable to the revenue officers and practicable under the limitations of the local administration. His plan was first discussed at a conference of revenue officers held in Allahabad on 21, 22 and 23 January, 1833, at which Lord Bentinck presided. The conclusions arrived at in this conference formed the basis of Regulation IX of 1833 which was passed on 9 September, 1833 and which enacted in the form of law the modified provisions and principles of revenue settlements. The scope of our study includes only the stage of formulation of this law which provides a clear view of the nature of agrarian relations sought to be established in the Ceded and Conquered Provinces. To this part of our enquiry we shall turn in the next chapter. (An analysis of the application of the principles in the actual revenue settlements conducted from 1833 to 1849 is outside the scope of this study.)

AN EXAMINATION OF THE CURRENT VIEWS ON MODIFICATION OF POLICY

In extant literature, the gradual drift towards a modification of the provisions of Regulation VII of 1822 has been analysed merely in respect of the change in the principles of assessment and the administrative difficulties in the implementation of earlier provisions. For example, Baden-Powell has written as follows:

The theory of the scheme enacted by Regulation VII of 1822 was excellent; but the local machinery was, in its then existing condition, both as regards number and the training of the subordinate establishment, altogether inadequate to its realization. The law imposed a double task. First, there was the judicial or quasi-judicial determination of questions of right, custom of tenure, and so forth. Secondly, there was the fiscal part—the assessment of revenue. The first portion might have been accomplished with some assistance in the way of more officers; but the second proved to be so little understood as to be, at first, impossible of performance.

The cause of this impossibility was, that first administrators, with all their skill, could not all at once devise a sound principle of assessment. Indeed, the principle has only recently—after a long series of experimental stages—developed into an adequate but sufficiently simple practice.

The old Bengal notion of a mere reference to lumpsum payments shown in the former Records, being necessarily superseded, it was (not unnaturally) at first supposed that, in order to ascertain the revenue which represented the Government share of the produce of land, the true produce of every field must be ascertained; so that, after deducting the ascertained costs of cultivation, the wages of labour and profits of capital, the 'net produce' might be known, and the share of Government (a fraction of the net produce) determined.

Such a task was . . . beyond the power of the staff, and after some years of laborious effort, it was found that no progress had been made.¹

He adds:

It will not be supposed that the Regulation of 1833 altered or

¹ Baden-Powell, *Land Systems of British India*, Vol. II, pp. 25-26.

overthrew the principles that were established eleven years before; it merely simplified the method of assessment, and rendered work possible.¹

Baden-Powell has thus analysed the provisions of Regulation VII, 1822, and the change caused by Regulation IX of 1833 only in so far as they pertain to the assessment of government revenue. He does not deal with the change in policies regarding the rights of the various classes of people in the agricultural community and their relations with one another as well as with the government. He describes Regulation IX of 1833 as merely a simplification and not an alteration of the principles. Probably, this description can apply to Regulation IX of 1833 only in respect of the principles of assessment (although there too a difference of opinion is possible). But in regard to the rights of the different classes in the agricultural community, a basic change in principles was involved in Regulation IX of 1833 when compared with Regulation VII of 1822. This point is discussed below.

Other books on the land system of Uttar Pradesh have similarly compared Regulation VII of 1822 with Regulation IX of 1833 merely from the point of view of revenue assessment. For example, the U. P. Zamindari Abolition Committee wrote as follows on Regulation VII:

... it was in many respects far in advance of the times and generally failed by attempting too much. The wisdom and justice of some of the principles enunciated in it for the first time can hardly be questioned, but it imposed a burden upon the administrative machinery to which it was unequal. Its weakest point was the method of calculating the rent-rate for each field; in theory this involved a classification of the soil according to its productivity, ascertaining the gross produce of each class, appraising its value according to market rates and calculating the net produce by deducting from the gross produce the costs of cultivation. The task was apparently impossible and has never been attempted again. In all later settlements, the assessment has always been based upon the rent-rates actual or assumed. Calculations of the net profits of cultivation are now made as a check upon the rent-rates but these calculations are based not on strict statistical principles but on the judgement and experience of the settlement officer and on the local enquiries, which are largely opinions and

¹ *Ibid.*, p. 27.

are so devised as to support the results which have already been arrived at on entirely different principles.¹

The Committee thus restricted itself to the change in the methods of assessing the government demand and was not concerned with the implicit changes in the policy towards land tenures and the recognition of the rights of the various agricultural classes in relation to one another.²

Even Professor Eric Stokes, who has presented a very convincing analysis of land policy in the Ceded and Conquered Provinces in his book,³ fails to notice the significance of these changes which were implicit in Regulation IX of 1833. Like other writers, he too merely notices the change in the methods of assessment and declares that in the new Regulation IX of 1833, 'there was no sharp break with the past; rather was the old procedure abbreviated and simplified'.⁴ Although he does recognise that the rent theory ceased to influence the revenue settlements of the Ceded and Conquered Provinces as the result of the modification of Regulation VII of 1822,⁵ he ignores the implications of this in his discussion of 'The Effects of the Rent doctrine on Indian Land Tenures'.⁶ He, therefore, draws a somewhat mistaken conclusion regarding the effects of the settlements under Regulation IX of 1833 on the tenures in the Provinces. For instance, he declares that 'Mackenzie's proposals were generally accepted and became the basis of settlement system under both Regulation VII, 1822, and Regulation IX, 1833'.⁷ He also adds, 'Mackenzie's other proposals regarding the right to revenue engagement and to the proprietary title were also incorporated into the settlement system of North-Western Provinces. Wherever possible the right was vested in the village community and all superior tenures were extinguished'.⁸ This, however, is not entirely true in so far as the modifications introduced made the recognition of superior tenures possible in a large number of cases. Mackenzie's basic contention that no class should be allowed to draw a private rent from the soil, except such as was specifically assigned by the State,

¹ *U. P. Zamindari Abolition Committee Report*, Vol. I, pp. 127-28.

² *Ibid.*, p. 128.

³ Stokes, *op. cit.*

⁴ *Ibid.*, p. 103.

⁵ *Ibid.*, p. 101.

⁶ *Ibid.*, pp. 110-39.

⁷ *Ibid.*, pp. 113-14.

⁸ *Ibid.*, p. 144; cf. George Campbell, *op. cit.*, p. 159. Campbell writes: 'The battle between the officers who supported the claims of the aristocracy and those who took the more popular view raged with intensity in the course of the settlement. Neither one nor the other entirely prevailed . . . Many large zameendars were maintained in their position.'

and that the right to property in the soil should in no way be understood to confer the right to 'regulate occupancy and appropriate rent' were negated. So it became possible under the new Regulation to allow the proprietors to draw private and enhanced rents from the tenants as well as to continue the privileges of existing proprietors and avoid detailed interference in the management of their estates. Similarly, it is evident that when the practice of fixing the rent of each field separately and of calculating its 'net produce' was abandoned, the plan of 'ryotwar' settlements based on the removal of the intermediary agency between the government and the cultivator was also given up. Without a new approach to the safeguarding of the rights of the various classes of people in the agricultural community, neither a change in the methods of assessment of revenue could be introduced, nor a simple method of assessment could be devised. We shall discuss this point in the next chapter.

Since we are mainly interested in the relationship between the revenue settlements and the agrarian relations, we shall confine ourselves in the following pages only to an analysis of the modifications in the principles of Regulation VII of 1822 in respect of land tenures. We shall examine the altered perspective in which the government viewed the state of landed property and the nature of existing tenures, as well as the change in policy in respect of the rights of occupancy and the rents of tenants.

Change in the Perspective of Landed Property and Agrarian Relations

AS ALREADY stated in the preceding chapter, the change in the perspective relating to landed property and agrarian relations came about in the course of discussions on the ways and means of expediting the progress of revenue settlements under Regulation VII of 1822. These discussions began in 1830. Lord William Bentinck, whose 'first task' was 'to put the Indian finances on a firm basis',¹ deplored the slow progress of work of revising the revenue settlements in the Ceded and Conquered Provinces.² He believed that 'one of the results of the revised settlement' was to be 'an increase of revenue'³ and since the progress of revision, in most cases, was very slow, he saw 'no reason why the attainment of this object (viz., increase of revenue) should be postponed'⁴ until such time as the revised settlements under Regulation VII of 1822 were completed. The Governor General noticed 'the state of feverish anxiety'⁵ in which the landed proprietors in the Western Provinces must be kept during the pendency of the revision of settlements. He deprecated 'the mischievous consequences which must flow from the unsettled state of property' until the revision of settlements and gathered the impression that 'the improvement of the country must be indefinitely retarded, and its resources materially deteriorated, if some intermediate measures were not adopted to obviate such a calamity'.⁶

The most obvious remedy, according to him, was to renew, by a summary revision, existing engagements of all proprietors at an

¹ Amles Tripathi, *op. cit.*, p. 218.

² Letter to Board of Revenue, 7 April, 1831, para. 70, *Revenue Selections (1822-1833)*, pp. 252-53.

³ Letter to Board of Revenue, 7 April, 1831, para. 4, *Revenue Selections (1822-1833)*, p. 235.

⁴ *Ibid.*

⁵ *Ibid.*, para. 10, p. 236.

⁶ Letter to Court of Directors, 15 Sept., 1831, para. 6, *Report of the Select Committee, 1832, Vol. III, Revenue, Appendix*, p. 298.

enhanced *jama*, and for protracted periods,¹ say for fifteen to twenty years.² This meant that the right of property of proprietors recognised prior to the passage of Regulation VII of 1822 was to be extended for a fairly long period. According to him, there seemed 'no reason why during that period the proprietary classes should not be left secure in the enjoyment of the fruits of their industry, and why a measure should be retarded which cannot fail to remove in a great degree the existing obstacles to the improvement of the country'.³

It may be recalled that, after the passage of the Regulation VII of 1822, the practice of making revenue settlements merely on the basis of a summary inquiry and without a minute and detailed survey of land and investigation of land tenures was given up. The Court of Directors disapproved of it strongly in their despatch to the Bengal Government dated 24 October, 1827.⁴ The Court actually interdicted the extension of any settlement for a period longer than five years⁵ until they were sufficiently acquainted with the resources of the country and the rights and ancient customs of the different classes of landholders. Lord William Bentinck was fully aware of these instructions of the Court of Directors and the intentions of the Bengal Government.⁶ Nevertheless, after his tour through the Western Provinces in the winter season of 1830-31, and his personal conversations with the local revenue officers, he was satisfied that 'the time has arrived when it is advisable to require the best information which most competent local authorities can furnish, and to weigh with the most scrupulous attention all the arguments which may be adduced either for or against any change in the existing system of settlements'.⁷ He felt that had the Court of Directors been acquainted with the slow progress in the revision of settlements, they would have modified the existing arrangements.⁸ In his letter to the Court of Directors, with a view to forestalling any objections to his plan, he wrote, that he would 'sanction no measure involving a sacrifice of the just demands of Government or a compromise of

¹ Letter to Board of Revenue, 7 April, 1831, para. 5, *Revenue Selections* (1822-1833), p. 235.

² *Ibid.*, para. 7, p. 236.

³ *Ibid.*, para. 67, p. 252.

⁴ Cited in Governor General's Letter to the Board of Revenue, 7 April, 1831, para. 65, *Ibid.*, p. 251.

⁵ Revenue Letter to Bengal Government, 27 Nov. 1811, *East India Selections*, Vol. I, p. 6.

⁶ Letter to Board of Revenue, 7 April, 1831, paras. 65 and 92, *Revenue Selections* (1822-1833), pp. 251 and 259.

⁷ *Ibid.*, para. 68, p. 252.

⁸ *Ibid.*, para. 69, p. 252.

those reasonable claims to protection which it is the first duty of the State to extend to all classes of the agricultural community'.¹ He also mentioned the enormous expenditure that had been lavished on the minute and detailed surveys of land conducted in connection with the settlement proceedings under Regulation VII of 1822 and its futility for the purposes of revenue settlement.

Thus, Lord William Bentinck was led to consider the ways and means of deviating from the strict line of proceedings laid down under Regulation VII of 1822. The pressure of fiscal needs and the exigencies of practical administration made it necessary for him to expedite a measure which should have yielded the State exchequer more revenue. His approach was entirely a pragmatic one. Thus, he declared most candidly about Regulation VII of 1822 that 'there can be but one opinion on the soundness of its theory; its practical application to the state of things in this country is all that can be doubted'.² He therefore issued an instruction that if the Board of Revenue 'should see reason to dissuade the government from pursuing any other course than that prescribed by Regulation VII of 1822', they should furnish their opinion 'as to the best mode of simplifying, and consequently expediting that process, consistently with the attainment of the objects thereby contemplated, namely, the combination of the revision of the *jumma* with the ascertaining and recording the tenures, rights, and privileges of all persons possessing an interest in the land'.³

The emphasis on the practical aspects of revenue administration led the Governor General somewhat away from the original view of land tenures which was propounded in the resolutions of the government earlier. The need for larger land revenue and the desire to reassure the proprietary classes that there will be no interference with such of their rights as had already been vested in them by the earlier regulations made the government withdraw from some of the principles which had been accepted before. An interference with the existing rights of the proprietors was implicit in the government's determination not merely to ascertain and record but also to settle and determine with retrospective effect rights of the various classes in the agricultural community, after minute investigations

¹ Letter to Court of Directors dated 15 Sept., 1831, para. 7, *Report of the Select Committee*, 1832, Vol. III—Revenue, Appendix, p. 298.

² Letter to the Board of Revenue, 7 April, 1831, para. 72, *Revenue Selections (1822-1833)*, p. 253.

³ *Ibid.*, para. 85, p. 256.

into the antecedents of the various rights and their conformity or otherwise with past usage and custom. Moreover, the power to determine the rents payable by cultivators to proprietors and the policy of maintaining them for the period of the settlement by granting *pattas* to all cultivators also affected the interests of the existing proprietors. Now the government took a lenient view of the claims of the existing proprietors. The best method that Lord Bentinck initially thought of was a summary settlement with them for a long period of fifteen or twenty years.

His view of the advantages of an intermediate summary settlement was as follows:

The chief advantage of the immediate grant of long leases is in tranquillizing the minds of the proprietary classes, in affording them greater inducement to promote the prosperity of their estates, and in creating motives of attachment to the Government under which they would enjoy benefits of a nature which may be considered solid and permanent in comparison with any they have hitherto experienced.¹

He regarded these advantages 'in the highest degree important'² and said 'that they would immediately follow an extension of the terms of leases'.³ Lord William Bentinck also wanted the Board of Revenue in the Ceded and Conquered Provinces to suggest what portion of the gross rental of any land should be taken by government and what portion should be left to the zamindar or other managing owner, by whatever name he may be called. Since, in the settlements made hitherto, the determination of such proportions had been at the discretion of individual officers, which was not always very equitable, he wanted it to be so fixed 'that it shall operate uniformly and universally' in the whole country.⁴ In the case of estates where there were 'intermediate managers between the government and the cultivating classes' and the rates payable by the latter were settled, he felt it was not difficult to fix these portions, and supported the prevalent opinion of the revenue officers that the allowance in favour of the zamindars (intermediary proprietors) should in no instance fall short of thirty or thirty-five per cent. of the government *jumma*. He thought that this allowance must be

¹ *Ibid.*, para. 89, p. 257.

² *Ibid.*, para. 90, p. 257.

³ *Ibid.*

⁴ *Ibid.*, para. 107, p. 262.

regarded 'as the capital by which improvement is to be accomplished'.¹ The Governor General also stated frankly that he was 'disposed to place the greatest possible value' on an intermediate agency, 'as well for being the natural link of connection between the lowest classes and the government as for superiority to the revenue *ameen* as the best manager of the complicated interests of each village community, and the best promoter of improvement'.²

The grant of leases to existing proprietors on the basis of a summary investigation might involve, according to the Governor General, 'the danger of over-assessment, arising in cases of doubtful or disputed proprietary claims, from the eagerness of competition, and the danger to which the interests of the subordinate tenantry might be exposed from the summary nature of the process'.³ He dismissed the first danger and thought that 'the collectors might be easily cautioned against indulging in excited expectation'. As regards the second danger, interestingly enough, he held an opinion strongly reminiscent of the opinions held at the time of the Bengal Permanent Settlement. '... There may be some difficulty under the summary process in protecting the rights of the subordinate proprietors and the tenantry at large;' he wrote, 'but their condition cannot certainly be deteriorated and may be improved by the improvement of the tenure of the superior'.⁴ But he felt that the danger could be easily avoided by recording the demands of the superior proprietors in the *pattas* which ought to be delivered by them to the subordinate tenants—a procedure identical with that adopted under the Bengal Permanent Settlement.

Lord William Bentinck addressed a long letter to the Sadar Board of Revenue⁵ inviting their opinion on the propriety and expediency of anticipating the progress of the detailed settlement by the grant of long leases, based on investigation which was more summary in character than what was prescribed by Regulation VII of 1822.⁶ He also circulated a large number of queries to which the Board of Revenue was to provide answers after hearing from the local revenue officers.⁷

¹ *Ibid.*, para. 106, p. 261.

² *Ibid.*, para. 102, p. 260.

³ *Ibid.*, para. 91, p. 257.

⁴ *Ibid.*, para. 94, p. 258.

⁵ Letter dated 7 April, 1831, *Revenue Selections (1822-1833)*, pp. 235-67. The Board of Revenue for the Ceded and Conquered Provinces had been designated as the Sadar Board of Revenue in those years.

⁶ Letter to Court of Directors dated 15 Sept., 1831, *Report of the Select Committee, 1832*, Vol. III—Revenue, Appendix, p. 298.

⁷ Letter to Board of Revenue dated 7 April, 1831, para. 124, *Revenue Selections*

It is evident from the sentiments expressed by Lord Bentinck and the nature of queries circulated by him for collection of infor-

(1822-1833), pp. 265-67. These queries were as follows:

1st—The nature of tenures which generally prevail in each district with a specification of the different members forming the constitution of a village, and an enumeration of the different grades of occupants, from the individuals termed proprietors to the tenant-at-will;

2nd—The rules by which such village community is ordinarily governed, whether belonging to a single individual or to a body of proprietors;

3rd—In either case, the profits or privileges attaching to the proprietors in their relation to government;

4th—Where there are many proprietors of one village, the mode in which their several interests are regulated; whether they had specific portions of land, each separate from his neighbour, or is land held jointly? In what mode they contribute their several portions of government revenue and from what source they derive their respective profits?

5th—By what means the government revenue is realised; that is to say, where there are numerous proprietors or *putteedars*, is one or more of them selected as the *malgoozar*, or are engagements taken from each individual proprietor? In the former case, the principle according to which the selection is made, and the extent to which the engagement of the recorded *malgoozar* is considered binding on his brethren, what are the profits or privileges incident to his office? Whether the *byachara* tenure prevails; and if so, what are the peculiar features of that tenure?

6th—To whom is the waste land supposed to belong, especially in a *byachara* village?

7th—Whether any settlements under Regulation VII, 1822 have been made and of those made, how many have been confirmed by government? What principles are assumed in adjusting the government demand? Whether the productive powers of the land, with reference to the different classifications of soil, or the actual produce, form the basis of the assessment?

8th—In making settlements, what are the different classes of individuals whose rights, &c., it is considered necessary to protect, and are there any descriptions of ryots claiming a possessory interest, or an interest of any denomination?

9th—What means are taken for protecting the rights of the proprietary and cultivating classes, and are *pottahs* given on all or what occasions?

10th—Are the rents paid in money or in kind, and has in any instance the share of the produce been converted into a money payment; if so, on what principles?

11th—Is there any known *pergunnah* rate which can always be referred to in case of a dispute between the cultivator and the proprietor?

12th—Are there any particular crops the rents of which are never taken in kind; if so, what are they and what is the reason of the distinction?

13th—Has any assistance been derived, in the course of the settlement operations, from the professional surveys?

14th—What is the process resorted to in settling a village, both as regards the determination of individual rights, and the adjustment of the government revenue?

15th—Are maps of any kind formed and what description of registers are made of the several tenures?

16th—Is any settlement formed showing, at one view, the different fields, which may be situated in different parts of the village owned or cultivated by the same individual?

17th—What period of time will probably elapse before the settlement under Regulation VII, 1822, of the district can be completed and do any means occur of expediting its progress?

18th—With reference to the length of time which must elapse before the

mation by local officers that he was keen on expeditious completion of the long course of proceedings which had been embarked upon by the government in the Ceded and Conquered Provinces. He wanted first to ascertain the existing rights and privileges of different classes and the customs and usages prevalent at the time of the enquiry, and thereby to determine what rights required to be recognised and protected. Thus, he adopted an empirical and pragmatic approach to the problems of land revenue administration.

We have seen in the earlier chapters that Lord Moira's and Holt Mackenzie's horizon had extended somewhat beyond a mere pragmatic empirical approach. They had formulated a view on the basis of the theory of rent and had devised a course of policy in accordance with the postulates of that theory. Their views even on the question of the rights of the various classes in the agricultural community had been derived from the classical theory of rent. They were generally inclined towards discontinuing the agency of intermediate managers and of making suitable compensation for any interests of which they may be deprived. The Court of Directors had also explicitly given their approbation to this principle,¹ since they were also under the spell of the theory of rent, and had emphasised the 'utter inefficiency of a Zamindari Permanent Settlement to secure the attachment of village proprietors, from which class . . . the native troops of the Government were principally drawn'.² But Lord William Bentinck was disposed favourably towards the intermediate managers and felt interested in 'creating in them motives of attachment to the British Government'.

We have seen that during the years prior to 1822, the rights of intermediary proprietors between the cultivators and the government had been recognised and created. These proprietors had been enjoying their rights and exercising their powers over their tenants for well over two decades. Through the process of inheritance and sub-division, their number had also grown. Correspondingly, the customary rights and usages of the village communities had been gradually modified. The consequence was that both forms

detailed settlement can be completed, what would be the advantages and disadvantages attendant on an intermediate summary settlement for a long period of from 15 to 20 years ?

¹ Letter of Court of Directors to Bengal Government dated 28 Sept., 1824 cited in Governor General's Letter to Board of Revenue, 7 April, 1831, para. 66, *Revenue Selections (1822-1833)*, p. 250.

² *Ibid.*, p. 249.

of proprietary tenures had co-existed in the Ceded and Conquered Provinces, viz., the zamindari and the *pattidari* or *bhaichara*, at the time Lord Bentinck undertook a tour of the Provinces.

Under the former system, the proprietors generally belonged to the non-cultivating classes and were only intermediaries between the government and the actual cultivators of the soil on their estates. They enjoyed the rights to regulate the occupancy of the cultivators, originally conferred by the British regulations and exercised as a matter of course ever since, and to appropriate the 'surplus rents of a village, or a number of villages forming one estate'.¹ Under the second system of tenure, the proprietors consisted of the village zamindars, divided into *pattis* and *thokes*, who were the owners as well as the cultivators of the lands they held. They enjoyed the privileges of transferring their rights by sale, gift or mortgage (which the former also enjoyed), as well as to appropriate 'the profit which each cultivator could derive from his own lands, after paying his share of the Government revenue assessment on the village'.²

The queries circulated by Lord William Bentinck were bound to bring forth replies which described the situation of rights as it existed and to conceal such rights as were either difficult to find out or had gradually become too feeble. The misrepresentations of the existing proprietors and the native revenue officers, who had also acquired large landed property in the early years of British administration, were also an important hurdle in the way of ascertaining those rights. Moreover, since the queries circulated elicited information only on the prevalent circumstances, the revenue officers were prone not to examine landed rights as they had existed before the British rule but as they had been since then. Further, the explicit statement of Lord Bentinck's own views which were inclined in favour of the intermediary proprietors, generally evoked a sympathetic response in the minds of harassed and over-worked revenue officers. Their own predilections were in favour of a system under which much of the details they were required to ascertain could be dispensed with and they could be relieved of the arduous and delicate task of determining and adjudicating upon the conflicting rights of the various classes of persons in the village community. In their replies, therefore, one finds a clear preference for an approach

¹ Letter of Board of Revenue to Governor General, 25 May, 1831, para. 7, *Revenue Selections (1822-1833)*, p. 271.

² *Ibid.*

which provided scope for the recognition of all existing proprietary rights and eliminated the principle adopted earlier of allowing no private-rent property to vest in individuals except such as was left deliberately by government.

(i) *Views of the Board of Revenue and Local Officers*

The Board of Revenue circulated the queries of the Governor General amongst the local revenue officers.¹ In the meanwhile, it also offered its own opinions on the various issues raised by Lord William Bentinck.² Subsequently, when the replies of revenue officers were received, the Board addressed some more letters to the Governor General communicating the contents of these replies as well as their own comments on them. The views of the Board and other local officers given below have been extracted from these documents.

The first important question for discussion was the expediency of an intermediate summary settlement with existing proprietors for a long period of fifteen to twenty years. The Board and the revenue officers generally reacted unfavourably to the conclusion of such a summary settlement with existing proprietors. The Chief Commissioner of Delhi,³ the officiating Commissioner of the Meerut Division⁴, and a few other officers were of the opinion that a summary settlement would be highly expedient if it were confined to estates the proprietary right to which was not disputed, if the engagements were optional and left to the free choice of the proprietors and if certain precautions were taken against the danger of over-assessment and for safeguarding the rights of the ryots.⁵ But most of the others agreed in condemning the proposition, and recommended a simplification of the existing system of settlements,⁶ rather than the adoption of a summary settlement. The Board of Revenue, though convinced that summary settlement within a reasonable period was not impracticable,⁷ had the apprehension that 'no settlement which is not compulsory in its operation and

¹ Letter to All Commissioners, 24 June, 1831, *Revenue Selections (1822-1833)*, pp. 305-08.

² Letters, 25 May, 1831, and 22 July, 1831, *Revenue Selections (1822-1833)*, pp. 269-86 and 297-304 respectively.

³ Letter, 31 May, 1831, *Ibid.*, pp. 287-91.

⁴ Letter, 24 May, 1831, *Ibid.*, 291-97.

⁵ Minute of Governor General, 28 Jan., 1832, *Ibid.*, p. 366.

⁶ *Ibid.*, p. 366.

⁷ Letter, 22 July, 1831, *Ibid.*, p. 304.

founded on surveys will be found to secure the double object, contemplated by His Lordship, namely, advantage to the Government and security to the people'.¹

They doubted that if individuals were free to become parties to a summary settlement or not as they pleased, they would be found willing to pay voluntarily for their estates a *jama* at all equal to that which they might be compelled to pay in the regular course of law.² Moreover, by such a summary settlement, the attainment of the benefits expected to result from the complete records of all rights connected with the land would be indefinitely postponed, and the objects of Regulation VII of 1822 would be entirely frustrated, to the great discredit of those whose business it was to execute the intentions of the Legislature.³

The Board of Revenue and the local revenue officers, therefore, suggested a simplification and abridgement of the procedure laid down by Regulation VII of 1822. Accordingly, the Board furnished a perspective of landed property and agrarian relations which was different from that adopted in 1822. We shall examine this changed perspective in the following paragraphs.

The Board of Revenue declared that the answer to the question whether it is expedient or not to abandon the system of inquiry into the extent and assets of estates, and the rights of persons connected with the land, as prescribed by Regulation VII of 1822, must depend 'in a great measure on the . . . purposes hitherto contemplated by the Government being practicable or not within a reasonable period, and at a charge not disproportioned to the value of the objects proposed to be attained'.⁴ They emphasised the need for a 'clear perception . . . of what the scheme of settlement devised by the late Secretary to the Government in the Territorial Department intended to embrace, and of the precise mode in which its several purposes may be accomplished'.

NATURE OF PROPRIETARY RIGHTS IN LAND

According to the Board, the objective underlying the settlement law of 1822 was merely that the rights of all persons connected with

¹ *Ibid.*

² Minute of Governor General, 20 Jan., 1832, *Ibid.*, p. 363.

³ *Ibid.*

⁴ Letter to Governor General, 25 May, 1831, para. 2, *Revenue Selections (1822-1833)*, p. 269.

the land, whether as receivers or payers of rent, should be carefully ascertained and recorded before there was any change involving a compulsory increase of the government revenue over the existing *jama* of estates. Their view of the nature of these rights was as follows:

It has been apparently assumed, or at least suggested, that the rights of persons in this country are of a very complicated and a very various nature, and that the niceties of them are such as can be detected only by careful and well-directed investigations in the interior of the districts by the European officers of the government, in direct communication with the persons in whom these complex rights are supposed to vest. Now if rights of the character here alluded to do exist, we must confess that they have escaped our observation, and yet we are not sensible that we have been, either since the commencement of His Lordship's present tour, or at former period of our service, wanting in diligence to acquire a just knowledge of the real character of Indian land tenures, either as they existed prior to the introduction of the British government, or as they have been incidentally affected or positively modified by the English revenue laws.¹

The Board further added:

There are, so far as we have been able to discover, only two descriptions of proprietary tenures in malgoozaree land in the temporarily settled provinces, one in which the proprietary right, whether vesting in one or more persons, is general extending over the whole lands of a village, and entitling the party or parties interested in it either to the whole or a share of the rent which may be in excess of the Government jumma, or to the possession of a portion of land, divided off by a government officer, to form after the division, a distinct estate; the other in which the lands have been long separated into thokes and puttees with the exception of a portion, more or less considerable, in different villages, which remains shamilat or common, the proprietary occupants of the thokes and puttees being connected in interest chiefly by the joint obligation of making good, by a rateable contribution from their respective lands, the sums requisite to complete the government demand, and meet general village charges, after the

¹ Letter to Governor General, 25 May, 1831, para. 5, *Ibid.*, p. 270.

proceeds of the common land have been applied to these purposes.¹

These remarks were explained in terms of the language of classical political economy as follows:

If the Board have succeeded in explaining, in a way that shall be intelligible, the only distinction which they believe exists in proprietary tenures, where the land revenue has not been fixed in perpetuity, it will be seen that the *beneficial interest in one case consists in a right to share in the surplus rents of a village generally, or a number of villages forming one estate; whilst, in the other, it is limited to the profit which each cultivating proprietor can derive from his own lands, after paying his share of the government jumma.*² It appears to us, that to the estates of former description, whether comprising one or more villages, in which proprietary interests are usually specified in the fractions of a rupee, the term zemindaree may be conveniently applied, and to estates of the latter, in which rights are more immediately connected with the possession of land, and are commonly expressed in the fractions of a beegah, the word putteedaree.³

Thus, the Board considerably modified the objective of Regulation VII of 1822 by stating that it was merely to record the rights of all persons connected with land as receivers or payers of rent. We have already seen in Chapter VII that this Regulation was adopted on the basis of a particular understanding of the Indian land tenures and the Indian land revenue system, which was coloured by the classical theory of rent. In terms of that theory, the absorption of the entire rental surplus by the State was regarded as the best method of taxation of agriculture, and the abolition of intermediary proprietors appeared to be the best method of promoting the expansion and improvement of agriculture. That is why the Regulation gave wide powers to the collectors not merely to ascertain and record, but also to adjudicate upon the various rights in land claimed by different persons. These powers were given along with a complete exposition of the government's views on tenurial rights which inclined in favour of the cultivating proprietors, viz., the village

¹ *Ibid.*, para. 6, p. 270.

² (Italics author's)

³ Letter, 25 May, 1831, para. 7, *Ibid.*, p. 271.

zamindars, and against all those proprietors who did not possess rights of property in the soil according to the custom and past usage but had been recognised and admitted as proprietors in earlier settlements or were created as the result of the operation of British laws. Explicit instructions had been given to the revenue officers to correct all errors and omissions of the past, to adjust all disputes of title to land, and to precisely define the nature of property and possession of every individual.

The Board now adopted a more or less eclectic compromise. They judged the Indian land tenures not from any abstract point of view, as was done in 1822, but from an empirical and practical point of view. They took the hierarchy of proprietary rights already established as a fact of the situation and thus tried to leave scope for recognition of both types of proprietary rights, viz., those of the intermediary proprietors enjoying the power to extract an increasing private rent, as well as those of the cultivating proprietors entitled only to enjoy the profits of cultivation left after the payment of government revenue. Thus they said:

The proprietary rights of individuals in estates in this country are, we believe, perfectly settled, so far as their nature is concerned, in the minds of those most interested in the matter and are fully known; for though the persons in whom these rights vest have not ceased to be spoken of in such ambiguous terms as contractors for the revenue, "persons whom you call recorded proprietors, malgoozars", &c., still we are satisfied that, speaking generally, there is hardly a village throughout that portion of the Western Provinces which is governed by the British regulations wherein there are not persons who can go into any civil court in the country, and, by evidence admitted to be valid and everywhere recognised, establish a claim to a proprietary interest in the rents of lands specified in extent, either in fractions of a rupee or a beegah, and subject to no obligation as to the condition of enjoyment, excepting that of payment to a public officer of the Government share of the rent, and of refraining from any violation of the rights of others.¹

Persistently the Board laid stress on the recognition of existing

¹ Letter of Board of Revenue to the Governor General, 22 July, 1831, para. 7, *Revenue Selections (1822-1833)*, p. 299.

rights, particularly the proprietary rights. The Board openly expressed their admiration for the Bengal Permanent Settlement and declared, 'Let those who see evils in that measure (Bengal Permanent Settlement) compare the condition of the beautiful provinces now under the influence of it, either as respects cultivation or the comfort of the inhabitants generally, with the state of those parts of the British territories where the much-lauded native system of temporary settlements (and therefore real *government* property in land) still prevails and then let them pronounce whether the great creator of private property in land in India deserves to be commemorated ... or ... branded as the author of a pure and unmixed evil'.¹ However, the main reason why the Board insisted on the sanctity of existing rights was the need for maintaining the *status quo*. They said:

... we do not imagine that it is proposed to set aside rights that have existed and been recognised by law ever since the British Government has been connected with the Ceded and Conquered Provinces and on the continuance of which countless money transactions are dependent, and with which many of the most important relations and feelings of millions of individuals are connected.²

Thus for practical and political reasons, the Board regarded it as necessary that the revenue officers should have nothing to do with the determination of rights. They could only ascertain the rights which existed and just record them.³

RIGHTS OF RYOTS AND FIXATION OF RENTS FOR THE DURATION OF THE REVENUE SETTLEMENT

As regards the rights of ryots, the Board declared that, 'Ryots, we think, are either mere tenants-at-will, or else have right of occupancy in particular fields'. But, according to them, the right of occupancy did not mean the right to hold land at fixed money-rates. It was only the right of making the proprietor accept the alternative of taking his rent in kind, according to the local and well-known rule of division, if a commutation money-rent could not be agreed

¹ Letter to Governor General, 25 May, 1831, para. 24, *Ibid.*, p. 280.

² Minute by Governor General, 20 Jan., 1832, para. 10, *Ibid.*, p. 354.

³ Minute by Governor General, 20 Jan., 1832, para. 10, *Ibid.*, p. 354.

upon to the satisfaction of both parties.¹ The Board believed that the 'revenue administration of Native rulers . . . never recognised . . . a right in cultivators to occupy lands at fixed money-rents'.² They were inclined to think that permanent cultivating tenures had always been admitted and maintained by native governments, but that these were always subject to the contribution of a known proportion of produce in kind, regulated according to local usage, either by qualities of soil or description of crops, and commutable, at the pleasure of the parties interested, into money payments.³ According to them it was a mistake to interpret this right as giving a title to the limitation of rent payable to an aggregate sum for a term of years.⁴

The Board further declared that, 'in most zemindaree estates composed of single villages the ryots are mere tenants-at-will and can have no claim, and in fact make none, for protection on the Legislature beyond that of being secured in the enjoyment of their lands so long as they fulfil the obligations, written or implied, under which they cultivate'.⁵ They observed that, in the resolution of government dated 22 December, 1820, there was 'a disinclination to admit that *Khode-khoost* (*khud-kasht* or *resident*) ryots have no right of occupancy'.⁶ They were inclined, however, to think that the term was used there 'without due discrimination'. According to them, in western part of Bengal, the word *khode-khoost* was not used as opposed to *pykhoost*, but was applied only to lands cultivated by proprietors. In Western Provinces, a resident ryot was usually called a *dehee assamee* (resident ryot), whilst a ryot from a neighbouring village was called a *pahi assamee* (non-resident ryot).⁷

The Board consequently explained the nature of the rights of tenants as follows:

. . . a single instance would not be found from the western extremity of Saharanpore to the eastern boundary of Goruckpore District, including perhaps the dominions of the King of Oude, and not omitting the reserved Delhi territory, of a zemindaree, jageerdaree, mokurruree or of any other description of estate held by the superior, in which the rent-payers, of whatever name

¹ Letter, 25 May, 1831, *Revenue Selections* (1822-1833), p. 272.

² *Ibid.*, para. 11, pp. 272-73.

³ *Ibid.*, para. 23, p. 278.

⁴ *Ibid.*

⁵ *Ibid.*, p. 273.

⁶ *Ibid.*

⁷ *Ibid.*

or character, claim a right to hold land at fixed money-rates in perpetuity, or rates limited in the aggregate for a village, and fixed in detail. The rule of *buttye* (division) is, we believe, the only rule of limitation known; and that ought, of course, in every case, to be ascertained and recorded.¹

As a natural corollary, on the question of fixing the rents of cultivators by government and maintaining them during the term of the revenue settlements, the Board made the following observation:

It is generally thought that the existing rules make it incumbent on the revenue officers to grant *pottahs* to resident cultivators when they desire to have them. It was undoubtedly the purpose of the framers of Regulation VII, 1822, that *pottahs* should be granted. On the expediency and justice of granting *pottahs*, different opinions are entertained. We think the most that should be attempted in respect to fixing rates is the classing of lands and specifying the rates by which the assessment on the Government *jumma* is to be regulated, leaving it to the Courts to determine when questions are brought before them whether an increase in any case may be legally demanded or not.²

They added that 'it would be quite impracticable to determine the whole rent to be paid by every *ryot* in a village for a lease of years by the Government without a large sacrifice of rent, and therefore of revenue'.³ 'Any arbitrary determination by the officers of Government of the sums payable as rent may be extremely mischievous, specially where a payment in kind is converted into a money payment'.⁴

It will thus be seen that the radical principles inherent in Regulation VII of 1822 were thrown overboard. By interpreting the fixity of rents to be no more than the customary rate of division of produce, and by taking advantage of the absence of fixed money-rates, the Board arrived at the conclusion that government could not fix the rents of *ryots* at the time of settlement and maintain them for its duration. By showing that it will mean limitation of rents of the proprietors and consequently of government revenue,

¹ *Ibid.*, para. 24, p. 279.

² Minute of the Governor General, 20 Jan., 1832, para. 30, *Ibid.*, p. 386.

³ *Ibid.*, para. 7, p. 353.

⁴ *Ibid.*, para. 8, p. 353.

they wanted this principle to be waived to the ultimate benefit of the intermediary proprietors because they could be able to raise the rents payable by their under-tenants, who were virtually declared as mere tenants-at-will by the Board.

NATURE OF REVENUE ASSESSMENTS

Having developed this conception of the proprietary and occupancy rights of owners and tenants respectively, the Board of Revenue came to the conclusion that the *ryotwari* mode of revenue settlement, adopted by Sir Thomas Munro in the Ceded districts of Madras Presidency, was not applicable to the Ceded and Conquered Provinces.¹ Under the *ryotwari* plan, the whole of the land in each village was surveyed by native *amins* (surveyors) and numbered field by field. The wasteland also was divided into fields of convenient size. Thereafter, assessors were employed to class the land according to its rent-yielding capacity. After the fields were surveyed and classified, a sum was fixed as assessment for the village, and this was then apportioned and allocated to each field of productive land, according to its size and class, and the revenue to be shared by the fields of each class was declared as their permanent rent, which was liable to no increase, however much the value of the land might be augmented in course of time, by improved tillage, outlay of capital, establishment of manufactures, fall in the value of money, or any other cause whatever.² It was assumed as a fixed principle that no person except him who cultivated, or regulated the cultivation of, a field had any interest in it.³

The Board added that under this scheme, while the rent for each field was permanent, the rent payable by the ryot in a particular year varied and required adjustment in each year, as more or less land was cultivated by him.⁴ Thus, this system was more *ketwar* (field-wise) than *ryotwar* (ryot-wise), and its purpose was 'to adjust the money-rent of each field so as to leave to the occupant not only that share of the produce which cultivators usually receive... but also such portion of the rent as would make, either immediately or at no very remote period, the tenure of each ryot a saleable one'.⁵

¹ Letter to Governor General, 3 Sept., 1830, *Revenue Selections (1822-1833)*, pp. 203-08.

² *Ibid.*, para. 4, pp. 204-05.

³ Letter to Governor General, 7 Dec., 1830, para. 4, *Ibid.*, p. 226.

⁴ *Ibid.*, para. 5, p. 205. ⁵ *Ibid.*

The Board said that the Government of Bengal had never pretended to make a fieldwise settlement anywhere like the one attempted by Sir Thomas Munro.¹ The reason was that under the existing law in the Bengal Presidency, *a right of property in land existing independently of a right of occupancy*,² had been created and recognised to vest in the proprietors. The revenue officers, when revising settlements, were therefore bound to tender estates for fixed periods at a revised *jama* moderately assessed, 'to persons who are deemed and who have been called ever since the cession or conquest proprietors',³ and to allot them a proprietary allowance if they rejected such tenders. Therefore, the measures of the Bengal Government were limited, so far as revenue alone was concerned, to ascertaining what rents were actually paid by the cultivators to the proprietors and adjusting its demand by their aggregate amount.⁴

The Board explained the difference between the tasks of settlement officers in Madras and Bengal. In Madras, as it was mere assessment of lands without reference to proprietary rights, their task was one of distributing a fixed sum, which a village in its existing state of productiveness might be thought capable of easily yielding, on the several classes of land according to which the land surveyed by *amins* was recorded. But, in Bengal, their task was that of ascertaining from the *patwaris*, or to fix by the best data that could be obtained, the amount of aggregate rent derivable from the estate by the proprietors and to take a portion of this sum as government revenue.⁵ The business of settlement in the Ceded and Conquered Provinces, therefore, was to fix the portion of the existing rents that was to be taken as revenue and not to assess the rents to be paid by cultivators.

Thus, on the basis of the view that proprietary rights existed independently of the rights of occupancy in the land, the Board understood the task of revenue officers as merely one of *ascertaining rents which were actually paid and not of determining what rent should be paid*. This, according to them, could be done, in the zamindari estates, by asking the proprietors to submit a statement of the actual rents and rates realised by them and recording them in the official records. On *pattidari* estates, they could be ascertained

¹ *Ibid.*, para. 6, p. 205.

² *Ibid.* (Italics author's)

³ Letter to Governor General, 7 Dec., 1830, para. 5, *Revenue Selections (1822-1833)*, p. 226.

⁴ Letter, 3 Sept., 1830, para. 6, *Ibid.*, p. 205.

⁵ Letter, 7 Dec., 1830, *Revenue Selections (1822-1833)*, p. 227.

from the village headmen and similarly noted in the records. There was no need, the Board held, of determining the actual amount of rent that should be levied on any field.

NATURE OF REVENUE SURVEYS

It is evident that the plan for revenue surveys to be conducted for the purposes of revenue settlements was also closely dependent upon the views which were held on the state of landed property in the Provinces. The degree of meticulousness with which details had to be attended to in the course of the surveys depended upon the nature of tenures sought to be recognised or created. During the years 1822 to 1833, 'no uniform system of record for revenue surveys' had been adopted,¹ 'nor any establishment . . . organised in order to ensure their being properly executed',² to which the Board was 'inclined to impute the little effective progress',³ in completing the settlements under Regulation VII. The Board believed that the main purposes of Regulation VII of 1822 could be achieved only by means of field surveys, the records of which showed distinctly how every owner or occupant of land in a village was connected, either as receiver or payer of rent, with the particular fields.⁴

The Board suggested that, in zamindari estates, where the proprietors enjoyed a share of the rents derived from tenants, it was sufficient to measure the lands, and prepare a survey register in which the fields were numbered, their position in the village was described and the names of the occupants and the relation in which they stood to the rent-owners were specified, together with the extent of land and the character of the soil according to the local designations, comprised in each field.⁵ The rights of the proprietors in such estates could be specified in terms of fractions of a common denominator, say a rupee, and such rights being general, it was not necessary to connect individuals with particular fields. The European officer was only to have a statement of such proprietary interests prepared by a native officer, and ascertain that the parties were satisfied with the record. But, if there were disputes, he was to dispose them of to the best of his judgement, leaving the possible

¹ Letter, 3 Sept., 1830, para. 12, *Ibid.*, p. 207.

² *Ibid.*

³ *Ibid.* ⁴ *Ibid.*, para. 10, pp. 206-07.

⁵ Letter to Governor General, 25 May, 1831, *Ibid.*, pp. 273-74.

errors to be rectified either by the Commissioner of the Division or by the Courts of Justice.¹

Similarly, in *pattidari* estates where members of the village communities were the proprietors as well as the cultivators of their fields, the Board suggested a similar survey register of fields, in which the extent of fields occupied by each *pattidar*, the classes of lands, and the revenue assessed thereon may be indicated. The interests of the different co-parceners would thus be separately recorded without any possibility of dispute.² Their rights in wasteland could be recorded by indicating the fractional share of a common denominator, say a *bigha*.

Regarding the actual methods of assessing the government revenue, the Board suggested that collectors should rely on 'general considerations'³ applied to such data and information as they might acquire on the basis of the surveys and from other sources, rather than compute the net produce of each field on the basis of tedious calculations of average produce and profits of husbandry. After the extent of total land and land under cultivation in a estate, together with the qualities and advantages of situation and access to means of irrigation of every kind of soil had been determined by the survey, the collector could compare these results with those of previous operations, past collections of revenue, and all other circumstances, such as inequalities and maldistribution of revenue burden that might have been noticed. On the basis of such data, 'no collector in the habit of applying his mind to the affairs of his district would be at a loss, or feel the least diffidence, in specifying the amount of increase to the existing *jama* which might be reasonably demanded in any case, or the abatement that ought in fairness to be granted'.⁴ They thought that 'equality and fairness of assessment are infinitely more likely to be the result of demands regulated by a general comparison of survey with former operations, and inferences drawn from occurrences already on record in the collector's office than any estimated field rentals'.⁵

The Board severely deprecated the method of assessing the government revenue on each field separately and then arriving at the aggregate revenue of a village. They suggested that the aggregate must be assessed first for the village as a whole and then the total could be distributed by the different members of the village com-

¹ *Ibid.*, p. 273.

² *Ibid.*, p. 274.

³ Letter, 25 May, 1831, *Ibid.*, pp. 276-77.

⁴ *Ibid.*, p. 278.

⁵ *Ibid.*

munity amongst themselves in a *pattidari* estate, without the need for the collector to interfere with such distribution except in cases of dispute. In zamindari estates, the fractional shares of each proprietors having been ascertained and recorded, it was not necessary to distribute the aggregate amongst individual cultivators or tenants, the proprietors being left free to regulate the distribution.

The Board declared that if these modifications were carried out, almost all the objects of the government could be accomplished by surveys of estates, properly checked and recorded, accompanied by short settlement abstracts descriptive of the nature and extent of the proprietary rights that existed in each estate.¹ They thought that the progress of the settlements had been retarded, if not entirely obstructed, by the immense mass of useless writing, and the compilation of accounts of no essential importance which the observance of the settlement forms according to Regulation VII of 1822 imposed on the revenue officers. 'Almost all that now troubles and embarrasses, nay frightens, the public officers, by its apparent complexity and real prolixity' could be easily dispensed with.²

The Board, therefore, submitted that their opinions regarding the proprietary rights, the rights of ryots, the records essential for the protection of both, and the mode of assessing the government *jama* suggested by them might be scrutinised before anything further was done to expedite the settlement operations.³

It is evident that the views of the Board implied a retreat from the radical theory underlying Regulation VII of 1822. Instead of conceding that the right of property in the State revenue or in private rent was the creation of the British rule and was based on an erroneous policy which was sought to be rectified gradually through proceedings under Regulation VII, the Board interpreted even the rights of cultivating proprietors, viz., *pattidars*, as being parallel with the rights of the rent-receiving proprietors who had no connection with cultivation. Such interpretation was only justified by the anxiety to reconcile the existing pattern of land tenures and the existing laws of the British Government with the objective of restoring to the village communities their lost rights and privileges as far as possible.

As regards the rights of ryots (non-proprietary cultivators), it had been held formerly that, by and large, all cultivators living in a village were entitled to occupy their lands if they paid the customary share of the produce to the State and that they were not liable to eviction with-

¹ *Ibid.*, p. 280.

² *Ibid.*, p. 284.

³ *Ibid.*, p. 285.

out any default in the payment of revenue. The Board now tried to reconcile the existence of a proprietary tenure which gave the right to exact private rent from the cultivators, with the right of occupancy of the cultivators. They interpreted the right of occupancy as nothing more than the option to require the proprietor to accept an amount of rent according to the well-known rule of division of produce whenever commutation into money rent was opposed by the cultivator. But, clearly, the right of occupancy of the cultivator was something more in the eyes of custom than the mere option of paying his revenue or rent according to the customary rule of division of produce.

It will be recalled that the government had been considering the question of choice of the particular class which should be the beneficiary of the limitation of government demand. The intermediary proprietors were neither regarded as entitled to receive an economic surplus under the law and custom in India, nor was it considered expedient to leave it to them in terms of the classical theory of rent. But, on the other hand, the persons best entitled to share the surplus, viz., the village zamindars, were too numerous and their numbers tended to increase with the operation of the Hindu law of subdivision of property. The government had left the question open. By 1826, as already explained, it was inclining towards a definite choice. But, at the same time, it had no intention of treating a single person as the absolute proprietor of the estates under him, while there was every desire to protect the rights of the subordinate revenue payers.

According to the new point of view from which the Board looked at proprietary and cultivating tenures, the existing proprietors, whether intermediary landlords or cultivating proprietors, could alone be vested with the right to benefit by the limitation of government demand. Proprietors were now also deemed to be entitled to regulate the rents of their under-tenants whether in *pattidari* estates or in zamindari estates, because the right to property in land was interpreted according to the western notions of property, which influenced the early settlements as well. This meant that proprietary tenures sought to be established were to be essentially of the zamindari type, as in Bengal. The only difference was that wherever no intermediary interests were found to exist already, village communities were to be admitted to engage for revenue directly without the intervention of any intermediary. But, potentially, the rights of the

village zamindars also could be converted into rights of intermediary proprietors in cases where they settled tenants on their holdings or sold their rights of property to non-cultivating classes and reduced themselves to the status of their tenants. It was the potential transferability of the proprietary rights of the village communities which was an important cause of the gradual disintegration of the village communities and the establishment of non-cultivating intermediary proprietorship tenures on a large scale in the Ceded and Conquered Province in subsequent years.

(ii) *Opposition of the Board's Views by Charles Metcalfe And R. M. Bird*

The opinions and suggestions of the Board of Revenue were strongly opposed by Charles Metcalfe,¹ who was then the Vice-President of the Governor General's Council in Bengal Presidency, and Robert Martins Bird,² who was one of the Members of the Board of Revenue incharge of the settlement operations³ in the Ceded and Conquered Provinces. Both these officers questioned the principles advocated by the Board and suggested means which were in strict conformity with the Regulation VII of 1822. They vigorously reaffirmed the principles enunciated in the resolutions of the government adopted in 1820 and 1822 and the Regulation VII of 1822. Their opposition proved of no avail in the face of the powerful considerations of political expediency and of speeding up the revenue settlements. However, their views and suggestions deserve careful attention.

Metcalfe was the first to join issues with the 'gentlemen composing the detached branch of the Revenue Board'. He foresaw the 'immensity of the consequences which may result from the opinions of the gentlemen'.⁴ In view of the 'vast'⁵ and 'intrinsic importance'⁶ of the subject from the point of view of 'the happiness of the bulk

¹ Minute by Charles Metcalfe, 7 Nov., 1830, and 3 Feb., 1831, *Revenue Selections (1822-1833)*, pp. 208-24 and 229-34, respectively.

² Minutes by R. M. Bird, 25 Sept., 1832, on Ryots, on Proprietary Tenures, and on the Acceleration of Surveys, Investigations and Simplifying Accounts of Settlements, *Revenue Selections (1822-1833)*, pp. 419-40, 441-51 and 452-63 respectively.

³ The views and opinions of the Board of Revenue discussed earlier came from that branch of the Board which was appointed to attend the Governor General during his tour in the Western Provinces. The members of this branch were Messrs. W. Fane and R. M. Tilghman. But R. M. Bird, it will be seen, entertained widely divergent opinions from his colleagues.

⁴ Minute, 7 Nov., 1830, *Ibid.*, p. 208.

⁵ *Ibid.*, p. 224.

⁶ *Ibid.*, p. 208.

of the inhabitants of the Western Provinces' which depended 'more on revenue settlements than on any other thing whatever',¹ Metcalfe found it necessary to counter the opinions expressed by the Board and make his own proposals.

NATURE OF PROPRIETARY RIGHTS

In the first place, Metcalfe's attack was directed against the Board's views on the proprietary rights in the Bengal Presidency. He questioned the Board's premise that the state of landed property in the Madras Presidency was different from that in the Bengal Presidency in so far as the right of property in the soil, independently of the right of occupancy, had been recognised.² He did not support their plea for the recognition of the zamindari tenure and declared:

Everywhere the state of property seems to consist in the right of possession and use subject to the payment of a fixed portion of the gross produce as revenue to Government. This revenue may wholly or in part be alienated by a grant of the Government for a period or nominally in perpetuity . . . but these grants do not affect the question. They are avowedly alienations of the public revenue, partial or entire, temporary or permanent as the case may be.³

He added that 'the system of Indian land revenue does not admit between the Government and the cultivator any proprietor competent to intercept and appropriate the Government share of the produce'. Property in land, according to him, existed but not to the extent of depriving the government of its share of the produce, unless this be conferred in gift by a positive grant'.⁴ He, therefore, concluded,

in our unsettled provinces, none but cultivating interests do properly exist; or rather, that there are generally no proprietary interests in land unconnected with the cultivating interests. All else is of our own invention, to no good purpose, neither well defined nor well understood, but tending to confusion and injustice, the injury of the Government, and the injury of the real landowners' (village zamindars).

¹ *Ibid.*, p. 224.

² *Ibid.*, pp. 210-12, 215 and 234.

³ *Ibid.*, pp. 210-11; also see pp. 212 and 215.

⁴ *Ibid.*, p. 214.

Naturally, holding as he did such a view of the landed property in India, Metcalfe did not agree with the Board's advocacy in favour of the recognition of proprietary rights of the persons who were deemed and had been called proprietors ever since the cession or conquest.¹ He emphasised that many who were called proprietors had been entered on the collector's books as proprietors although they had no pretensions whatever to that designation.² In many a village, where the real proprietors were once numerous, an upstart had acquired, without right or by fraud, an ostensible pre-eminence and pretended to be a sole proprietor.³ Metcalfe deprecated the annihilation of the rights of the village zamindars and cultivators, through the British administration declaring those to be proprietors who were not proprietors,⁴ and by treating those who were merely representatives of the village communities, as the landowners of the entire village.⁵

Metcalfe saw 'similar mischief unintentionally lurking' in the plans of the gentlemen of the Revenue Board. He, therefore, warned that there was no point on which government ought to be more careful than the acknowledgement of pretended proprietors in the Western Provinces, other than the real members of the village communities.⁶ 'The only proprietors, generally speaking,' he wrote, 'are the village zemindars or *biswahdars*; the pretensions of all others are *prima facie* doubtful and ought to be clearly established before

¹ *Ibid.*, p. 230.

² *Ibid.*, p. 230.

³ *Ibid.*, pp. 216-17. On the creation of proprietors under the British rule, Metcalfe wrote: 'It is supposed that many now called proprietors have been created by something like the following process—A or B attends the collector's office either alone or with others, to make a revenue settlement on the part of his brethren of the village community to which he belongs; he signs the engagements entered into on behalf of the community; A or B is put down in the collector's books according to our revenue vocabulary, as proprietor, having no greater title to that designation than any of his brother zemindars or *biswahdars* (sharers) of the village. If more than one attend the collector, the settlement is said, for brevity, to be made with A or B and others. The addition of others in time falls into disuse, and A or B remains as recorded proprietor, or perhaps two or three names are inserted instead of one. A new collector arrives, and finding certain names in a column headed by the word 'proprietors', supposes the persons named to be what they are termed, and considers them also as contractors for the Government revenue. The revenue falls in arrears, and the village is sold as the estate of the one or few individuals whose names are recorded as those of the proprietors, and purchased by some one, who accordingly becomes sole proprietor, to the destruction of the right of the village zemindars or *biswahdars*. From that time arises insuperable embarrassment respecting the relative rights in the land of the assumed proprietor and the real village landholders. The law makes the former sole proprietor but the latter are the real occupants and it becomes impossible to reconcile the conflicting rights of the two parties;' *Ibid.*, pp. 230-31.

⁴ *Ibid.*, pp. 216.

⁵ *Ibid.*, p. 222.

⁶ *Ibid.*, p. 216.

being admitted'.¹ 'In any settlement, more precise and determinate than these hitherto made', it will be necessary to be most cautious not to sacrifice the proprietary rights such as they are, of the numerous proprietors of villages, to the pretensions of one or a few who may have brought themselves more into notice, and obtained predominance, whether by fair means or foul.' Enquiry had therefore to be made in each village, as contemplated under Regulation VII of 1822, because the names recorded in the collector's books might be either of persons who were not proprietors or those of persons, who, being part proprietors, were not exclusively so but representatives of the body of village proprietors.² No part of the duty of the Board deputed to the Western Provinces, in his opinion, was 'of greater importance than the scrutiny of the pretensions of these persons called proprietors'.³

NATURE OF THE RIGHT OF GOVERNMENT AND REVENUE ASSESSMENT

For these reasons, Metcalfe did not accept the modifications sought to be introduced by the Board of Revenue in the proceedings of the settlements. He regarded their proposals as virtually implying a change in the earlier system.⁴ He refused to accept the Board's premise that the 'business of settlement-making consisted of fixing the portion of existing rents that was to be taken as revenue and not to assess the rents to be paid by cultivators'.⁵ Could the right of the government be defined as a portion of the existing rents? He expressed himself on this point as follows:

Any villager in any village throughout India, . . . can tell what share of the produce of the land belongs to the Government. This is an acknowledged, understood right, differing probably as to amount in different parts, and in the same parts differing according to circumstances, but well known to all the cultivators as the right or share of the Government, whatever the local usage may be as to amount. If on the other hand, the question were put as to what share of the rent paid to the proprietor is the right of Government as revenue, I do not believe that it could be answered by any one, from the lowest cultivator to the Senior Member of the Board of Revenue, because such a mode of settling the demand of Govern-

¹ *Ibid.*, p. 230.

² *Ibid.*, p. 217.

³ *Ibid.*, p. 230.

⁴ *Ibid.*, p. 215.

⁵ *Ibid.*, p. 208.

ment is unknown in the revenue system of India, and has not, as far as I am aware, been established by the Government.¹

According to Metcalfe, the first step in making a settlement was to ascertain the amount which the acknowledged right of government would yield.² This could be done only by the survey and measurement of every field. To avoid the sacrifices of the legitimate revenue of the government, most minute investigation was necessary, without which there could be no certainty about the adequacy of assessment.³

There was a slight difference in the position of Metcalfe in regard to the mode of assessing the government revenue *vis-a-vis* the principles of Regulation VII of 1822. We have seen in Chapter VII how under Regulation VII of 1822 it was resolved to determine the net rent payable on each field in accordance with the postulates of the classical theory of rent. The whole of the net produce had been regarded as the legitimate revenue of the government. Metcalfe did not approach the question from this point of view. He wanted that only the customary share of the gross produce due to the government should be taken as government revenue. He, therefore, explained that the first task of the revenue officers was 'to ascertain not the rent paid for each field but the Government share of revenue payable from each field'.⁴ In this respect, therefore, he was more of an advocate of the traditional mode of assessment under the Indian revenue systems than an adherent of the classical theory of rent. However, in so far as his proposals would have required elaborate calculations of the amount of revenue to be derived from each field, their acceptance would not have caused any serious departure from the principles of revenue settlement under Regulation VII of 1822.

FIXATION OF PERMANENT FIELD ASSESSMENTS

Metcalfe was of the view that the revenue of each field should be fixed permanently as under the *ryotwar* system.⁵ Under the *ryotwar* system, although the government revenue varied according to the value of the land, the differences of soil, population, situational and other advantages, and the inferior land paying a lower revenue became liable, when sufficiently improved, to pay a higher amount,

¹ *Ibid.*, p. 213.

² *Ibid.*, p. 210.

³ *Ibid.*

⁴ *Ibid.*, p. 233.

⁵ *Ibid.*, pp. 223-24.

there was nevertheless a maximum for the best land beyond which government demand did not go. There were even remissions in cases of urgent distress.¹ The landholder, was, therefore, sure of enjoying for ever any advantage that he could gain by superior cultivation and improvement.² Metcalfe thought that this was the 'true and proper permanent settlement', under which the reasonable claim of the government was satisfied and the profits of enterprise in cultivation went to the real landholder.

To the objection that fixation of permanent assessments on every field would necessitate the calculation of the annual government revenue payable by a proprietor from year to year (as it would depend on the number of fields actually cultivated or left fallow), Metcalfe replied that the remedy lay in the hands of government.³ He suggested that the government could make a 'variable settlement' founded on a permanent assessment of fields; and there was no imperative necessity for making a settlement for a fixed sum for a term of years with those who were called proprietors. According to him, since the so-called proprietors were only the creation of the British laws, the government was not necessarily obliged to collect from them an invariable sum over a long period. It was a matter of option for the government since it could remove them by the same means by which they were created.⁴ However, he thought that it was quite practicable to unite the principle of permanent field assessments with the principle of periodical settlements with village communities for a fixed sum of money.⁵

HOSTILITY TO INTERMEDIARY PROPRIETORS AND ADMIRATION FOR THE VILLAGE COMMUNITIES

From his views on the nature of proprietary rights discussed above, it would be evident that Metcalfe was strongly opposed to the intervention of any intermediary class between the cultivating proprietors, i.e., the village zamindars, and the government. He did not see why the government should invent a class of individuals in order to allow them to benefit by the management of what were mistakenly called estates instead of villages.⁶ He saw no necessity

¹ *Ibid.*, p. 217.

² *Ibid.*, p. 220.

³ *Ibid.*, p. 230.

⁴ *Ibid.*, p. 230.

⁵ *Ibid.*, pp. 220 and 232. Metcalfe did not explain fully how they could be made compatible. But R. M. Bird explained this aspect in details as we shall discuss in the subsequent pages.

⁶ *Ibid.*, p. 233.

even for the rights of existing proprietors to be recognised and supported by government. In fact he felt that from whatever the government might sacrifice in favour of the village zamindars, i.e., cultivating proprietors of the soil, much 'good will be done'¹ for the improvement of agriculture since the profit of cultivation would go directly to the real landholder.² But if the benefit went to proprietors who were 'neither landowners, nor landholders, nor cultivators, but the fictitious creatures conceived by our regulations and ushered into existence by our iniquitous sales', it would be 'purely loss of revenue without benefit'.³

Metcalf was an ardent admirer of the structure of village communities,⁴ and a powerful advocate of their rights. In spite of his strong convictions in favour of the introduction of a *ryotwar* system, based on the principles of permanent field assessments and direct revenue engagements with every ryot, as in Madras, he was apprehensive that direct engagements for revenue with each landholder or cultivator in a village in the Ceded and Conquered Provinces might destroy the integrity of the village community. He eulogised the village communities with a romantic ardour and in memorable words which, to this day, have been frequently recalled by most scholars of Indian history.⁵ He wanted that the constitution of the

¹ *Ibid.*; also pp. 211-12.

² *Ibid.*, p. 217.

³ *Ibid.*, p. 233.

⁴ *Ibid.*, p. 218.

⁵ 'The village communities are little republics, having nearly everything that they want within themselves, and almost independent of any foreign relations. They seem to last where nothing else lasts. Dynasty after dynasty tumbles down; revolution succeeds to revolution; Hindu, Putan, Moghul, Mahratta, Sikh, English, are all masters in turn; but the village communities remain the same. In times of trouble they arm and fortify themselves; an hostile army passes through the country; the village communities collect their cattle within their walls, and let the enemy pass unprovoked. If plunder and devastation be directed against themselves and the force employed be irresistible, they flee to friendly villages at a distance; but when the storm has passed over they return, and resume their occupations. If a country remain for a series of years the scene of continued pillage and massacre, so that the villages cannot be inhabited, the scattered villagers nevertheless return whenever the power of peaceable possession revives. A generation may pass away but the succeeding generation will return. The sons will take the places of their fathers; the same site for the village, the same positions for the houses, the same lands, will be reoccupied by the descendants of those who were driven out when the village was depopulated; and it is not a trifling matter that will drive them out, for they will often maintain their post through times of disturbance and convulsion, and acquire strength sufficient to resist pillage and oppression with success.

'This union of the village communities, each one forming a separate little state in itself, has, I conceive, contributed more than any other cause to the preservation of the people of India through all the revolutions and changes which they have suffered; and is in a high degree conducive to their happiness, and to the enjoyment of a great portion of freedom and independence.' *Ibid.*, p. 218-19.

village communities should not be disturbed and dreaded everything that might have a tendency to undermine it. He feared that a revenue settlement made separately with each individual cultivator instead of one with the village community through their representatives or headmen was calculated to undermine it. For this reason, and for this only, he did not desire a *ryotwar* settlement to be generally introduced in the Western Provinces. Under such a system, instead of all acting in union with a common interest among themselves according to established usage, each member of the community would have his independent arrangement directly with the government and could hardly fail to be thereby less linked with his brethern.¹

Metcalf, therefore, recommended a settlement generally with village communities, except where the village constitution might have been impaired, with little or no hope of successful rehabilitation, through the process of litigation, internal disputes, or other circumstances. In such exceptional cases, he suggested a separate settlement with each owner of land in the village.²

It will be evident that Metcalf's opinions were even more radical in their implications than the provisions of Regulation VII of 1822. While his admiration for the village communities was equally, if not more, ardent than that of Holt Mackenzie, his condemnation of existing proprietors was far more severe. His suggestions for bypassing the rights of proprietors created by the earlier British regulations disregarded all practical considerations of political expediency, and were therefore impracticable. While Mackenzie had suggested the retention of the intermediary proprietors by allowing them a small specified share of the government revenue, but without the power to extract enhanced rents and oppress the village communities, Metcalf did not see any necessity for their continuance even with such truncated privileges. He saw no utility in assigning a portion of the government revenue to the intermediary proprietors³ and wanted the entire government revenue to be claimed and realised except when it was relinquished in favour of the village communities. Every sacrifice of government rights in favour of the intermediaries, in his opinion, was a sacrifice without benefit. And he further warned,

¹ Metcalf, despite his romantic, almost blind, fascination for the village communities, rightly suspected that 'the village constitution which can survive all outward shocks, . . . is easily subverted, with the aid of our Regulations and Courts of Justice, by any internal disturbance'. He thought that 'litigation, above all things, would tend to destroy it most'. *Ibid.*, p. 219.

² *Ibid.*, p. 219.

³ *Ibid.*, p. 216.

that, even if the government decided to create a new class of proprietors and to assign a portion of revenue in their favour, 'it can only sacrifice its own rights; it has no right to sacrifice those of others. It may give up any portion of its own revenue but it cannot justly create proprietors of the property of others'.¹

Thus, generally, the suggestions of Metcalfe accorded fully with the letter and spirit of Regulation VII of 1832, and strongly countered the modifications proposed by the Board of Revenue. But since his suggestions did not lead to a simplification of the settlement operations, they were regarded as useless for all practical purposes. Consequently, much weight does not appear to have been given to Metcalfe's opinions. We do not find even a mention of Metcalfe's views in the Minutes of Lord William Bentinck, nor any serious consideration of his proposal to abolish all existing proprietors wrongly recognised in earlier settlements. Bentinck's final decision, as we shall see, completely disregarded Metcalfe's approach.

R. M. BIRD'S VIEWS

Mr. Bird's opposition to the suggestions of the Board was not so uncompromising. His was a more mature and practical approach. He accepted the Board's compromise view on the proprietary rights, viz., recognition of both forms of proprietary tenures, i.e., zamindari and *pattidari*,² despite his explicit admission that 'the former of these tenures is the distinct creation of the British Government'.³ He recognised that 'the putteedaree tenure is the only real ancient landed property in India and is also that which has suffered most under the British Administration'.⁴ But he frankly acknowledged the futility of arguing over the abolition of the intermediary proprietors in the following words:

It appears to me useless to debate the advantages or otherwise of getting rid of the class of malgoozars, because this cannot be done.⁵

Similarly, Bird also accepted the need for modifying the Madras

¹ *Ibid.*

² See Bird's Minute on Proprietary Tenures dated 25 Sept., 1832, in *Revenue Selections (1822-1833)*, pp. 441-51.

³ *Ibid.*, p. 441.

⁴ *Ibid.*, p. 442.

⁵ Minute by Bird (without date), *Ibid.*, p. 467.

system of making revenue assessments in its application to the Ceded and Conquered Provinces, as was emphasised by the Board.¹ In Madras, he explained, the object was to fix a suitable rent to be realised from any village on the basis of such information of every kind as could be obtained. This total being fixed, it was distributed over each field on the best possible estimate of the relative productivity of each field.² Thus, in Madras, the 'pure original system of Indian revenue administration prevailed as there were no rights interposed between the cultivators of the soil and the Government'. The only property either found or created was what was explained by the profit on the outturn of the fields after paying the rent to government. But in the case of the Ceded and Conquered Provinces, government had 'passed certain laws and created certain properties' which required to be respected.³ Therefore, it was necessary to see that nothing was done in contravention of those rights. The only course open in revenue settlement, therefore, was 'to connect each cultivator with his field, and ascertain on what terms he is entitled to hold, and what acknowledgement he is bound to pay, and to whom'.⁴ Proceeding upwards from the tiller of the soil, it was necessary to find out if the intermediary rights between the cultivator and the government existed and required to be respected, who was entitled to contract with the government for revenue, and what was the limitation on government demand, which was to be fixed. Therefore, Bird concluded, the business of settlement making in the Ceded and Conquered Provinces was 'unavoidably a synthetic process,'⁵ which meant obtaining an aggregate of ascertained items of detail, and fixing the ultimate rent, revenue or tribute to be taken by government, with an eye to all those gradations of admitted rights which intervened between the Sovereign and the soil, and each class of which was entitled to have its place fixed in the general scale by the act of the settlement.⁶

FIXATION OF RENTS AND MAINTAINING THEM DURING THE TERM OF SETTLEMENTS

However, there was one aspect of the Board's proposals against which Bird expressed a strong opposition, viz., their plan to give up the principle of fixing the rents of ryots on each field and of maintain-

¹ Minute by Bird, 25 Sept., 1832, *Ibid.*, p. 419.

³ *Ibid.*, p. 419.

⁴ *Ibid.*, p. 420.

² *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

ing them during the term of the settlement. The Board had proposed, it may be recalled, that, instead of fixing the money-rents of the ryots as a matter of course in the settlement proceedings, the ryots might be left to adjust their money-rents with the proprietors themselves or at best be given the option of paying their rents by division of gross produce. The rates of such division could be laid down for different classes of soils. According to the Board, such option provided adequate protection for the ryots. In their opinion, that was the only protection which used to be afforded to them under native governments as well. Beyond the right to pay the government revenue by rule of division, the ryots never enjoyed any protection against the enhancement of money-rent under the native rule.

Bird was vehemently opposed to leaving the ryots at the mercy of the proprietors. He marshalled powerful arguments to prove the 'propriety, expediency and necessity' of fixing the demands on the ryots and to show that the fixation by the government of rents to be paid by cultivators was neither actually nor conventionally incompatible with the right of property vested in the zamindars. By analysing the systems of land revenue administration in India in the past, he showed that fixity of the rents of the cultivators was an integral part of the native system. He also showed that the principle of fixation of the ryots' rents had been recognised and accepted in all the proceedings of the British Government, and in all communications addressed by the Home authorities in England, not only since 1820, but also under the earlier laws and regulations since 1795 when the Code of Regulations for Banaras was enacted. He not only stressed the principles of political expediency, social justice and moral obligation, but also adduced sound economic arguments in favour of fixing the rents of cultivators and maintaining them for the term of the settlement.

Bird contended that, prior to the British rule, those who preceded as lords paramount of India acknowledged no rights of property between the cultivator and monarch. This was as true in the later period of anarchy as in the palmy days of the Mogul rule. The native governments created at pleasure various classes of officers from subadars, chief of a province, to *muqaddams*, village headmen. But no one except the Sovereign had the right to interfere with, or to fix or alter, the share of gross produce which was specified as the government revenue.¹ The successor British Government had

¹ *Ibid.*, pp. 420-21.

declared 'every person connected with land except as a cultivator to be a proprietor'. But they had perceived the dangerous consequences of such declaration for the ryots and had therefore proceeded to make such arrangements as they thought sufficient to maintain that class in the enjoyment of its rights. Bird cited the various sections of the different regulations of the Banaras Code of 1795 in support of his contention.¹

From these premises, Bird came to the conclusion that it is the duty and prerogative of the sovereign to fix the portion of the produce to be taken from the cultivators or the money-rent to be received in commutation thereof. He also showed that the British Government had felt itself bound to adhere to this principle even when it had declared a proprietary right vested in persons other than the cultivators. Using almost the language of a peasant leader, he declared,

I claim on behalf of the ryots the *right* (Italics—Bird's), founded on the most ancient authentic records and uninterrupted prescriptive usage through a succession of Governments, native and foreign, from ancient times to our own, to have their payments fixed by the direct authority of the Government; to draw back in any degree from fulfilling to its fullest extent (this right) . . . founded as it is on the constitutional practice of the land, and maintained by every authority would, in my judgement, render us liable to the charge of injustice as well as impolicy² . . . This one measure fully carried into effect, I consider to be the only, but at the same time the sufficient, protection for their rights and

¹ *Ibid.*, pp. 421-22.

² *Ibid.*, pp. 422-23, Bird further wrote on this aspect as follows: 'I have often wondered that those who have employed their minds to investigate the principle of landed property in India should have over-looked this one marked, prevailing, uninterrupted, prescriptive usage. It is, in fact, the only right recorded. No other is so much as mentioned, and yet, so singularly do our associations govern our opinions, that many persons consider the ryots to have no rights at all, while they hesitate not to take for granted the rights of zemindars, talookdars, and all the host of unproductives, of whom, till our Government called them into existence, and associated with them all the notions of landed property which prevail in our own country, no trace was ever found in any authentic record, but as executive officers of Government.'

'The rights which our Government has conferred on these last-named class of persons, they and their officers are bound to respect, to maintain whenever practicable, and to make compensation for where they cannot be maintained. But they are no less bound to maintain that prescriptive right of the ryot which they have equally admitted, which boasts of a far higher origin, and stands on a far firmer foundation, which Government have declared it to be their bounden duty to uphold, and have by special enactment declared their purpose to make all necessary rules to support.' *Ibid.*

seek no other. The mode in which the sum of their payments is to be distributed, what Government will reserve for its own purpose, and what it will surrender to those on whom it has conferred the boon of property, will less materially affect their interests.¹

Having thus established the right of the cultivators to have their payments fixed by government, Bird inquired if any rule, enacted or prescriptive, was in existence by which the government could be guided in fixing these payments. He came to the conclusion that there was 'no such rule'.² Since the share of produce was determined by the will of the Sovereign and there was a great variety of the prevailing rates of rents in kind, the only guide could be the rule of division which prevailed in *batai* (crop-sharing) tenures, viz., the government could claim from half to five-eighths of the gross produce as its own revenue. But, according to him, the land held on such terms could never be cultivated properly since there would be 'no possible inducement to lay out capital upon it with a view to improvement'.³ Therefore, he suggested 'the alternative of fixing a money-rent for the term of the settlement'⁴ for each field.

However, there was an important difference between his suggestion and the provisions of Regulation VII of 1822. He did not want the 'money-rents' to be calculated on the basis of 'net rent' payable in the case of each field, since he regarded such calculations as a 'bootless and hopeless task'.⁵ He wanted the money-rents actually paid for a series of years, which, according to him, prevailed 'almost throughout the whole country', to be made the basis for fixation of rents. For the security of the ryots, he regarded it as sufficient 'to record that every field will pay for the term of the settlement the rent set down against it in the field-register'.

It may further be emphasised that Bird considered 'the right to have

¹ *Ibid.*, p. 423.

² *Ibid.*, p. 424.

³ *Ibid.*, p. 425. Bird demonstrated the operation of this principle with an example as follows: 'If . . . you take a fixed proportion of the crop, the unfavourable effect will immediately appear. I will assume the demand at half the produce, as it will show the result more rapidly. Suppose in the first year the crop is 8 maunds, each takes 4; the cultivator, by an outlay of the value of 2 maunds, brings the produce up to 10 maunds; each takes 5, but the cultivator has to replace his 2 maunds of outlay. Deducting this from 5, he now gets but 3; so he has had all the trouble and anxiety and gets clear one maund less than he did before—so that the improvement must be stopped, because the improver always labours for his own loss and another's gain.'

⁴ *Ibid.*, p. 425.

⁵ *Ibid.*, p. 426. In theory, however, Bird was in complete agreement with the provisions of Regulation VII of 1822.

his rent fixed by Government to appertain to every resident ryot in any *mouzah* (village), whether he be an old resident or a new settler'.¹ This meant that every cultivator who lived in the village and was a member of the village community was to be given the protection afforded through the fixity of rents. Only the *pahi-kasht* or non-resident cultivators were declared by Bird 'to have no right of the kind', since they enjoyed their rights in their own village. Consequently, they were to be left to make their own bargain with the zamindars'.²

Bird also suggested that the wasteland at the time of the settlement should be allowed to be cultivated by the resident ryots at rates not exceeding those fixed for similar lands previously in cultivation.³ This suggestion, if accepted, would have prevented the proprietors from rack-renting the tenants while reclaiming the wastelands with a growing pressure of the population on land, which became a marked feature of Indian agriculture in later decades.

In the case of villages entirely occupied by cultivating proprietors, Bird proposed that it was not necessary to ascertain rents. It was sufficient only to determine, from the analogy of neighbouring villages, the *rate of revenue per bigha* on the area and to record the land each sharer occupied, and the amount payable by him. In such a village, the necessity for fixing rents could arise only in the event of the sale of any portion of the village land to a stranger, in which case the collector could fix them.

It will be evident that Bird was pleading once again for the restoration of the principle of fixing rents and keeping them unaltered during the term of the settlement. This principle was the keynote of the theory underlying Regulation VII of 1822. Though for political reasons, the idea of the wholesale abolition of the rent-holders had been given up, it was now felt that security of tenure at specified rents would adequately protect the interests of cultivators and would not be inconsistent with the progress of agriculture.

Therefore, Bird strongly opposed the plan of leaving the rents to be settled at all times as between the zamindar and the cultivator, subject to the alternative that, if they did not agree, either might demand a division of the crop.⁴ His reasons were more or less similar to what had been adduced earlier by several officers, and very explicitly by Holt Mackenzie. He showed how such a rule would discourage effort and enterprise needed for the improvement of

¹ *Ibid.*, p. 438.

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*, p. 428.

agriculture and would be ruinous for agricultural production,¹ in the long run. He showed that the rule could never be equitable unless a proportion was fixed for each field separately, since the 'proportion of produce which can be assigned for rent on two fields of equal produce varies universally as the cost of production.'² Therefore, the proportion of produce fixed in general might absorb very different proportions of the total rent in different cases and in many cases might even encroach upon the wages of labour and profits of stock because the fertility of the soils was bound to vary widely. Moreover, he felt that such a rule would be extremely difficult to enforce in practice.³

As regards the compatibility of the policy of fixing the rents of the cultivators with the rights of property vested in the zamindars, Bird declared that the same government which had vested the rights of property in the soil in the zamindars in perpetuity had also declared its determination to fix rates which could be demanded from the ryots.⁴ The rights of property consisted merely of an allowance of

¹ *Ibid.*, pp. 428-29. Bird wrote as follows in this regard, 'We will suppose—and this is an everyday case—that a substantial ryot holds a tract of ground at a money-rent fixed either by custom or verbal compact. The prospect of profit has stimulated his exertions; he has laid out money and labour in improvement, and has made it, in the course of a year or two, a profitable concern. The zemindar at once demands an increase of rent, or the alternative of taking, if increased rent be refused him, his half of the crop as a buttae tenure. It is perfectly evident that the ryot cannot afford to give him half the crop, because if he did, he would necessarily be a yearly loser instead of gainer. He would be obliged then to consent to an increase of rent or give up his holding altogether. I have only to ask, Is this man protected in the enjoyment of what he has a right to? Does he obtain justice? Such a rule might afford some protection in a state of general insecurity and misgovernment, because in that state of things no one would lay out capital in improvements or do more than would be sufficient to raise a crop in the coarsest and cheapest way. In such a case the power on either side to demand a division might serve as a kind of rude mode of private adjustment where neither laws nor tribunals exist to enforce justice between man and man. But the moment any better method of cultivation is introduced, or any outlay of capital made, the rule loses its force, being altogether without reciprocity in its operation. The cultivator must always be the sufferer.'

Bird further added, 'It is very evident that while it (the optional rule of division) is insufficient to ensure justice and good faith towards the weaker party, the public must suffer every time it be brought into operation as a means of enhancing rent. For, in the case, . . . supposed, what will be the result? Will the cultivator continue to lay out capital and to add to that surplus stock of food which is the mainspring of all improvements? Undoubtedly not. If he does not throw up the land altogether and transfer his capital elsewhere, he will so manage it that in a very few years it will be his advantage to claim the division. For this rule, though it must always injure the diligent and thriving, may sometimes avail the slovenly and indolent cultivator; but it surely becomes a Government professing to seek the welfare of its people, to adopt such laws as may increase the stock of the commonwealth, encourage industry, and repress indolence rather than the contrary.' *Ibid.*, pp. 430-31.

² *Ibid.*, pp. 430; also see pp. 431-32.

³ *Ibid.*, p. 430.

⁴ *Ibid.*, p. 434.

ten per cent on the actual assets at the time of the settlement, with the contingent advantage of any expansion of cultivation. But 'the property of a cultivating proprietor occupying on the condition of paying such portion of the produce as Government may demand stood just as it previously existed; nothing was taken away, nor was anything added'. And, therefore, there was, no legal incompatibility between the newly created property and the fixing of the rents of the cultivators by the government.

As regards the practical difficulties in ascertaining the prevailing money-rents, Bird proved with irrefutable arguments that these difficulties were not insurmountable.¹ As for the delay likely to be caused in the progress of settlements by the operation of fixing rents, he showed that not much time was needed for completing the whole operation and that delay had been caused by the number of extraneous questions raised for inquiry and the preparation of a mass of records required.²

Bird, therefore, concluded that when the collector had ascertained and fixed the rent for each field, every care had to be taken to ensure that in no case was any demand in excess of the settlement rates allowed. Every care had also to be taken to explain and give publicity to the rents fixed for different fields and to make the people understand that no enhancement was to be permitted. He also desired that every facility was given for complaints to be lodged and that every attempt at extortion was summarily repressed and punished.³

Thus, Bird made out a most powerful case for the security and protection of all cultivators and the maintenance of fixed rents during the period of the settlement. But his powerful advocacy was in vain, since Lord William Bentinck did not accept his proposals, as we shall explain below.

BOARD'S REJOINDER TO BIRD'S SUGGESTIONS

Even before the matter was finally discussed by the Governor General, W. Fane, one of the two members of the Board of Revenue who had made the original proposals, submitted a rejoinder in order to establish that it was neither practicable, nor desirable, nor lawful to fix the rents of all resident cultivators and maintain them for the term of the settlements. Fane looked at the question primarily from a narrow financial point of view, viz., whether such a procedure

¹ *Ibid.*, pp. 426-28.

² *Ibid.*, p. 468.

³ *Ibid.*, pp. 439-40.

would lead to an increase or decrease of revenue after the conclusion of the settlement. For instance, on the question of practicability he wrote:

. . . I am of opinion that fixing the rent which each ryot shall pay to his landlord is not practicable, except at a certain loss of revenue, a large expenditure of money and an enormous waste of time. Whether revenue will be gained at last¹ by such a measure must, I confess, be merely guessed at at present, for the only extensive settlements that have been made on this principle are those effected in the Bareilly district, where a great loss of revenue has been suffered; but whether this has been occasioned by the principle followed in revising the settlements or by other causes, is a point on which a decided opinion cannot now be pronounced. *It seems to me, however, preposterous to suppose that the Government officers can persuade ryots to pay rents at all approaching those they may be made, and fairly made, to pay by proprietors.*² (Italics—author's)

Thus, according to Mr. Fane, government could derive much more revenue both at the time of the settlement as well in future by neither fixing the rents of cultivators nor maintaining them for the duration of the settlement, since proprietors could extract much heavier rents from the ryots than government officers ever could do. If the rents of ryots were fixed, the landlord's power to extract these rents and consequently assist in the increase of government revenue would be severely curbed. Evidently, from this point of view, no other decision could be taken except to leave the landlords free to squeeze from the ryots as much as they possibly could.

From this premise, Fane further argued that if it had been decided upon to maintain the proprietors, for whatever reasons, it was not desirable to put any curb on their power to extract enhanced rents from their tenants. He was very candid when he said:

. . . my opinion is that fixing rents . . . would not be desirable. Such an arrangement would be a sort of half measure between ryotwar and mouzahwar settlements that would establish a state of things in regard to the occupancy of land which would have no

¹ In the long run as was sought to be established by Bird in his Minute already discussed.

² Minute by W. Fane, *Ibid.*, p. 465.

resemblance to the relation between landlord and tenants that has heretofore¹ existed in India, or in any country of the world, that I am aware of. It seems to me that it would be infinitely better, if it were practicable, to set aside the proprietors of estates altogether than to introduce a system whereby a most influential class of people will be placed in a position where their interests and duties will be for ever at variance and a struggle constantly at work between them and public officers—efforts being made on one side to evade a rule, the fairness of which will never be recognised, and measures of repression applied on the other calculated to excite discontent and ill feeling.²

Fane invoked once again the fundamental premise of the Bengal Permanent Settlement, that by leaving a fair share of the rent to the landlord, improvement of agriculture will proceed naturally and inevitably. He wrote:

Wherever the Government revenue has been so fixed that a fair portion of the rent has been left to the landlord, and security has been felt, there improvement has followed as an inevitable consequence, without, so far as I have any knowledge, the condition of the ryot being deteriorated. Who but the most prejudiced can believe that the condition of the ryot in Bengal, Bihar or Benares is at this moment worse than when the revenue was collected by means of Government officers, or was paid by temporary lessees not subject to the restraint on their exactions which self-interest now imposes on proprietors.³

Thus, Fane once again relied on the same *a priori* principles which formed the basis for the zamindari settlement in Bengal as well as in the Ceded and Conquered Provinces. He ignored the volume of evidence tendered by numerous officers, which had persuaded the Home authorities and the Bengal Government to give up those *a priori* principles and to adopt the more radical and rational principles of land and revenue administration.

As regards the legality of fixing the rents of ryots, Fane relied on the existing laws and wrote, 'I am not aware of any law by which a civil court would be bound to recognise a Government pottah

¹ Mr. Fane evidently meant since the British rule.

² *Ibid.*, p. 464.

³ *Ibid.*, pp. 464-65.

for a fixed rent, where the ryot had before held on terms liable to adjustment by agreement either annually or at intervals'.¹ He interpreted the intentions of Mackenzie to be that no rights in land should be created where none existed or none was claimed and that nothing should be done by the settlement officers beyond ascertaining and recording existing customs. He thought that if such had not been the intentions of Mackenzie, 'all inquiries into the rights... on the customs heretofore prevailing would have been superfluous'.² But we have already seen in Chapters VII and VIII that Mackenzie was strongly in favour of fixing the rents of resident ryots and maintaining them during the period of the settlement. He had reaffirmed these principles in his Minutes of 1 July, 1819, and 19 October, 1826. Further, these principles had also been accepted in the Resolutions of Bengal Government dated 22 December, 1820 and 1 August, 1822. It was in accordance with these orders that the local revenue officers had regarded it as part of their duties to grant to resident tenants *pattas* specifying the rents payable by them. But since Mr. Fane was now pleading for a different approach to the whole subject of revenue settlements, he interpreted the earlier resolutions differently.

The arguments of Fane undoubtedly had an immediate appeal in the environment in which the modifications in the procedure of settlements were being discussed. The increasing fiscal needs of the Company, the resistance of existing proprietors, the whole trend of thinking amongst the revenue officers and the innumerable practical difficulties in the application of earlier principles had created a fertile ground for the reversion to the principles of a zamindari settlement as far as possible and a retreat from the principles of a *ryotwari* settlement. Lord William Bentinck's explicit sympathy for the existing proprietors and his concern for creating amongst them the motives for attachment to the British Government had further improved the prospect for the acceptance of views like those of Fane.

(iii) *Lord William Bentinck's Final Views on the Rights of Various Classes in the Agricultural Community*

Lord William Bentinck, the Governor General of India, ultimately formulated his final views regarding 'the fiscal rights of the Govern-

¹ *Ibid.*, p. 464.

² *Ibid.*

ment, the rights of the agricultural community, and the means by which both the one and the other may be most effectually secured'.¹ In his own words, he had 'long and anxiously deliberated on the state of revenue affairs in the temporarily-settled provinces'² and his opinions were not formulated 'in haste and without due consideration'.³

The Governor General expressed his sentiments and opinions in several Minutes written on various dates between 1831 to 1833. The most important of them are his two Minutes dated 20 January, 1832⁴ and 26 September, 1832⁵ respectively. In the former Minute, Lord Bentinck reviewed the replies of the local officers to his proposal for concluding an intermediate summary settlement with existing proprietors for fifteen to twenty years and to the several queries he had instructed to be circulated.⁶ In the latter, he expressed his considered and final opinions on various subjects connected with the land and revenue administration.

Both these Minutes are fairly long and contain a discussion of many problems, conceptual, methodological and administrative, relating to the practical aspects of revenue administration. It is neither necessary nor possible to go into all these problems. We shall, however, examine only such portions of these Minutes as are concerned with the rights of the government and of the various classes of persons in the agricultural community. The views expressed therein finally prevailed and formed the basis of the revenue settlements in later years.

PLAN FOR AN INTERMEDIATE SUMMARY SETTLEMENT GIVEN UP

In view of the adverse opinions of most revenue officers and the Board of Revenue on the expediency of concluding an intermediate summary settlement, the Governor General gave up his earlier proposal. He was 'impressed with the belief that the benefit which he once contemplated as likely to be the effect of an immediate summary settlement would not result from such a measure'.⁷ On the contrary, he found in the light of the opinions of the revenue

¹ Minute, 26 Sept., 1832, para. 5, *Revenue Selections (1822-1833)*, p. 386.

² *Ibid.*, p. 385. ³ *Ibid.*

⁴ *Revenue Selections (1822-1833)*, pp. 351-83.

⁵ *Ibid.*, pp. 385-418.

⁶ See pp. 259-61 of this chapter.

⁷ Minute, 20 Jan., 1832, *Ibid.*, p. 366.

officers that the government might suffer some loss of revenue by such a summary settlement instead of gaining an increase.¹ He concluded that 'if the progress of the system in force can be sufficiently accelerated, there exists no reason for risking the interests of government or the people by the adoption of a more summary process'.² The Governor General expressed his agreement with the Board of Revenue and other officers that the best course was 'simplifying the process of record' and 'abridgement of the voluminous accounts now required to be prepared'.³

Before such simplification was possible, it was necessary to have a clear view of the rights of the government and the rights of the agricultural community. The earlier resolutions had expressly defined the right of the government as that of receiving the entire net rent which the revenue officers were required to estimate. As regards the rights of the various classes, the plan was to secure and protect every cultivator in the enjoyment of his heritable and transferable rights of possession and cultivation of land, subject to the payment of the whole net rent to the government. This rent was to remain fixed for the term of the settlement. The revenue engagers were to be provided with a specific share of the rent legitimately due to government, without the power to regulate the occupancy or enhance the rents of lands under their charge. It was also the intention to rectify the errors and omissions of past settlements and to restore all rights lost under the operation of British regulations. Any plan for simplification either of the process of estimation of government revenue or of adjusting and adjudicating upon the various rights in land or its produce required a clear exposition of the rights of government and those of the agricultural community. In fact, the Board of Revenue had suggested, while discussing the various rights to be protected by government, that the best course 'would be to state exactly the views of Government in respect to them . . . and then to ask the revenue officers whether they concur in these views, or see reason to think they are founded in misapprehension, or are in any way inconsistent with the facts that have come under their observation'.⁴ And the Governor General precisely provided such views in his Minute of 26 September, 1832.

¹ *Ibid.*, p. 366.

² *Ibid.*

³ *Ibid.*, pp. 366-67.

⁴ *Ibid.*, p. 360.

NATURE AND EXTENT OF GOVERNMENT ASSESSMENT

The first important modification made by Lord Bentinck was in the 'notion of the nature of Government assessment'.¹ According to him, next to the general term 'revenue', the word 'tax' was the most appropriate designation of the government demand. He wrote,

It is levied, where there are acknowledged landowners, on the rent; and where there is no middleman between the Government and the actual cultivator, it is levied directly on the produce of the soil after deducting the wages of labour and profits of stock, as well as a certain proprietary allowance where the cultivator and owner of the soil may be one and the same individual.²

It would be seen that Lord William Bentinck struck at the root of the hitherto prevalent notion that the government assessment consisted of the 'net produce' or 'net rent' of the soil. Although he conceded that the assessment could be levied on the rents collected by the intermediary proprietors, yet it could, by no means, be construed as identical with the entire 'rent' or 'net produce'. If this view was taken, the government would be relieved of the obligation to compute the 'net rent' of each field, as required under the provisions of the Regulation VII of 1822. Lord Bentinck was quite explicit on this point, as the following extract would show.

As far as the rights of Government are concerned, . . . a minute inquisition into the capacity of each field or each village of the country is unnecessary . . . In fixing the assessment of the lands of any village, the safest guide is the actual produce and collections of former years . . . The object of the minute surveys hitherto conducted has been to fix the payment which Government can properly require as revenue from those who directly contribute it; in other words, the amount of private rent available for taxation in the hands of the community and the amount which should be contributed by each individual of that community. But . . . calculations proceeding from the detail to the aggregate are apt to be erroneous.³

Citing extracts from numerous letters of the Board of Revenue

¹ Minute, 26 Sept., 1832, *Revenue Selections (1822-1833)*, p. 389.

² *Ibid.*, pp. 389-90.

³ *Ibid.*, p. 402.

and the revenue officers, including those in the Presidencies of Bombay and Madras, Lord Bentinck came to the conclusion that 'to ascertain profits, or in other words, to convert gross produce into net produce, by any general rule, seems to be decidedly impracticable'.¹ He ruled that the assessment be fixed on general pragmatic grounds, viz., 'a review of past payments compared with present circumstances and from other obvious considerations of position and facility in realizing the current revenue, aided by the reports of tehseeldars concerning the character and condition of the proprietors'.² Thus, the theoretical basis of assessing the government revenue now yielded place to an empirical method. The assessment was now to be fixed on 'general considerations', on the basis of 'past payments', the general state of prosperity in the villages, the ability and resources of the proprietors, the diminution or increase in the cultivated area, the growth or decline in the cultivation of valuable crops, the facilities of irrigation and marketing, etc., and above all 'the judgement and sound discretion' of the settlement officers.

Government assessment was found to be very heavy when calculated according to the 'net produce' method. Abandonment of this method was bound to lighten the burden of revenue demand. But the principal drawback of the new procedure was the virtual abandonment of the radical implication of the doctrine of rent that no private rent-yielding property was to be permitted to remain or grow in future. Thus, the benefit of a light land tax would not accrue to the cultivator. It was to accrue to the proprietors, and the actual cultivator was likely to be exposed even more to oppression and rack-renting.

NATURE OF PROPRIETARY RIGHTS

The new notion of government revenue adopted by the Governor General implied modification of the government's notion of proprietary rights as well. Lord William Bentinck fully endorsed the suggestion of the Board of Revenue that there was no 'great variety or complexity of tenures',³ and adopted the definition contained in their letter dated 25 May, 1831. This definition, as already men-

¹ Stokes, *op. cit.*, p. 101.

² See Minute, 20 Jan., 1832, *Revenue Selections (1822-1833)*, p. 371.

³ Minute, 26 Sept., 1832, *Ibid.*, p. 390.

tioned, meant a classification of tenures into zamindari and *pattidari*, proprietary interests in the former being usually specified in the fractions of a rupee and in the case of the latter (under which the rights were more immediately connected with the possession of land) in the fractions of a *bigha*.¹ The zamindari tenure vested a right of property in the soil in the persons who were intermediaries between the cultivators of the soil and the government, while the *pattidari* tenure vested it in those who were both proprietors and cultivators of their lands. The benefits derived by the proprietors under the zamindari tenure consisted of the right to share in the surplus rents of a village or a number of villages forming one estate, while in *pattidari* villages, the right of proprietors was limited to the profit which each cultivating proprietor could derive from his own lands after paying his share of the government revenue.²

Lord William Bentinck, on his own testimony, was 'quite satisfied', after mature reflection, 'that the putteedaree is the original and natural tenure of all the lands in the country, the only proprietors known being the ryots' a term which comprised the whole agricultural community.³ He also recognised that 'the zamindari or *talookdaree* tenure is adventitious and artificial, being, generally speaking, a creation of the Moghul Government' and that the *talookdar* or zamindar was originally 'neither more nor less than a contractor with government for its revenue'.⁴ He also recognised

¹ *Ibid.*, p. 390.

² Letter of Board of Revenue, 25 May, 1831, *Ibid.*, p. 271.

³ Minute, 26 Sept., 1832, *Ibid.*, p. 390.

⁴ *Ibid.*, p. 391. In fact, Lord Bentinck expressed full concurrence with the following remarks of James Mill made in his evidence before the Committee of the House of Commons in 1832: 'I conceive that generally at one time the lands in India were occupied by ryots who had a right of perpetual occupancy; they were the hereditary tenants and cultivators of the land. I conceive that from them the revenue was collected by the officers of Government and that to the demand of Government there was no limit. By long practice there was something established that was considered to be a kind of standard beyond which the Government would not readily go, but it was always understood that the Government had a right to go as far as it pleased; I fancy that Government never went to less than the full rent of the soil, and in those cases there were but two parties really connected with the land; there was the mass of immediate cultivators, holding by right of perpetual occupancy, who could not be turned out as long as they paid the rent demanded of them, and there was the Government, which I conceive always obtained a complete rent. It frequently happened, from the disposition to collect the rent in a summary manner, that middlemen were interposed in the shape of mere renters. A certain district was rented and the man held it only for such a length of time as he was entitled by his lease. In Bengal, and in various other places, the summary process was carried to a considerable extent, and men of eminence and men of family acted as revenue managers of considerable districts. From the tendency in India of almost all things to become hereditary, those

that in the Ceded and Conquered Provinces, one found 'traces of the natural state of property, such proprietary interests as do exist appertaining generally to the immediate occupants of the soil, without the intervention of any connecting link between them and the Government'.¹ But from these premises, he did not arrive at the conclusion that the zamindars or *taluqdars* should disappear. On the contrary, he held that 'there may unquestionably exist proprietary tenures of the descriptions termed "zemindaree" and "*talookdaree*" to the preservation of which every attention is due'.²

The reasons for such a conclusion lay partly in his desire to maintain the legacy handed down to the British Government by the preceding native rulers, and partly in his admiration for the Bengal system of Zamindari Permanent Settlement. In fact, Lord Bentinck reviewed the whole course of the origin and development of the *taluqdari* tenure,³ and regarded the *taluqdars* as 'having generally the same description of right as properly belonged to the large zemindars' in Bengal. The rights of the tenants under the *taluqdars* were, of course, recognised by Lord Bentinck to be varied, depending upon the different circumstances of their tenures. But, on the whole, he came to the conclusion that 'the talookdars of the present day are, generally speaking, men who have succeeded in the second, third, or fourth generation to properties consisting of a varying number of estates'. He consequently drew the attention of the revenue officers 'equally to the *right, title, claim* and *interest* of the talookdars as those of the cultivating classes, each having claims which will not be inequitable to disregard'.⁴

Similarly, as regards the zamindari tenures, Lord Bentinck surmised that 'these may have arisen either from the foundation of the village community having been laid by an individual capital,⁵ or from subsequent acquisition of proprietary interests (by purchase at auction or by private sale, etc.) by the zamindars from those who, or whose ancestors, first occupied the land. These might have also arisen from 'some other competent origin'.⁶ Therefore, it was equally necessary to recognise and protect the rights of the

zemindarees often continued from father to son, and in that situation we found the zemindarees under the previous Government." *Ibid.*, p. 391.

¹ *Ibid.*, pp. 391-92.

² Minute, 26 Sept., 1832, *Ibid.*, p. 392.

³ *Ibid.*, pp. 392-95.

⁴ *Ibid.*, p. 396.

⁵ This means that an individual proprietor may have settled tenants on a piece of waste land by investing his own capital in residential hutments and other expenses for reclamation, cultivation or improvement of lands.

⁶ *Ibid.*, p. 392.

zamindars. Lord Bentinck believed that by declaring these people by law as the proprietors of the soil, the agricultural community was not placed on a worse footing than before. He felt that even if it had been practicable and more equitable to assign to a different class the advantages arising out of limitation of government demand, it would not have made the cultivators any the better for it.¹

Thus, he came to the conclusion that the proprietary rights of zamindars and *taluqdars*, wherever they may exist, should be fully recognised and maintained. In *taluqdari* villages, over which the *taluqdars* could prove no proprietary title derived either from the community or the State, their interest was to be specifically limited. Where, from the circumstances of the case, it may be deemed just and proper to exclude a *taluqdar* from the management of his estate,² the government was to insist upon a distinct interchange of agreements between the *taluqdar* and the village community, or their representative, assigning to the *taluqdar* a percentage of revenue. In remaining cases, however, the proprietary rights of the *taluqdars* were to be recognised and maintained. Similarly, in zamindari villages, zamindars were to enjoy full proprietary rights subject to the demand of the government. But, in villages where the zamindari or the *taluqdari* tenure did not exist, Lord Bentinck ruled that the *pattidars*, viz., the cultivating proprietors or the village zamindars, should be recognised as proprietors of their lands.

In the matter of recognition of proprietary rights, Lord Bentinck proceeded on the principle that 'all existing institutions be maintained, and prevailing systems of village management not be interfered with, except for especial reasons'.³ On this basis, all existing rights in land, including those already recognised by the British Government, rightly or wrongly, were to be as well safeguarded as those which were to be recognised for the first time in the course of settlements. But at the same time, no new rights were to be created.⁴ The proprietors were to enjoy such rights as they had enjoyed so far and all cultivators (with the exception of those whose right of occupancy at payment of fixed rents was acknowledged by proprietors and could be established) were to make their own bargain with the proprietors.⁵

Lord Bentinck also scrapped the plan for rectification of the errors and omissions of the past by means of investigations into the ante-

¹ *Ibid.*, p. 391.

² *Ibid.*, pp. 395-96.

³ *Ibid.*, p. 416.

⁴ *Ibid.*

⁵ *Ibid.*

cedents of all rights and restoring those which had been inequitably lost under the British Regulations. He was more inclined to consolidate and ensure the security of existing proprietors in order to expedite the progress of revenue settlements, than indulge in the investigation of claims to property or possession which were long dormant or lost in the normal course of law under the British rule. The earlier prejudice against intermediary proprietors, who intercepted a portion of government revenue and, according to the theory of rent, were regarded as obstacles to the improvement and expansion of cultivation, also disappeared from the official proceedings.

RIGHTS OF RYOTS AND FIXATION OF RENTS

Next to the rights of proprietors came the rights of ryots. The Board of Revenue had classified the occupants into hereditary ryots, new settlers, and non-resident cultivators.¹ They had also observed that, in the opinion of some revenue officers, 'a certain description of ryots' enjoyed a possessory title (right of occupancy subject to the payment of a fixed rent) in the lands cultivated by them. But they had raised the question as to 'what length of residence in a village should be held sufficient to constitute a claim to such a right of occupancy'. The Board had suggested twelve years as the proper period to be fixed by legislative enactment for conferment of such a right of occupancy on the ryots.² The remaining cultivators, in their opinion, should be left to make their own bargain with the proprietors without the government fixing their rents or vesting in them the right of occupancy.

The Governor General, on the suggestions of the Board, came to the conclusion that there appeared to be 'no defined rule' to indicate those who were entitled to the benefit of a restriction on rents and rights of occupancy. He wrote:

the terms resident cultivator and hereditary ryot seem to have been used without any definite meaning. No distinction is made between the residence of one day and of twelve consecutive years, while it is obvious that any claim founded on hereditary occupation must be equally indefinite, as two generations may have succeeded

¹ Minute by Governor General, 20 Jan., 1832, *Revenue Selections (1822-1833)*, p. 534.

² *Ibid.*, p. 356.

with such rapidity as to defeat any claim having such presumption for its basis.¹

Thus, on the basis of facts supplied by revenue officers, he could not devise any rules for the protection of the ryots which could be of universal application.² He also noted that, previous to the conquest of the country by the British, 'the labourer was more in demand than the soil, and that under such circumstances, the interests of those who were permitted to appropriate any portion of its net produce formed the best security of the ryot'.³

From this extract, one can infer that the question of protecting the tenant against the zamindar was never an issue in pre-British times because land was more abundant than labour.⁴ Although Lord Bentinck was fully aware of this fact, he came to the conclusion that 'to fix a money-rent payable for a series of years would, perhaps, operate with intolerable oppression on the needy ryot'.⁵ He wrote:

There are some soils which, after paying the wages of labour and the profits of stock, will yield little or no rent or surplus profits. There are others which, from their nature, require frequent fallows. Again, that part of the produce of land which is capable of being resolved into rent must vary in amount with the rise or fall of agricultural produce.⁶

Thus, in order not to burden the cultivator with the obligation to pay a fixed and invariable money-rent to his proprietor when the rent on his fields was liable to wide variations, Lord Bentinck did not want to vest the cultivators with the right of occupancy in general. He agreed, however, with the proposal of the Board that 'wherever a resident cultivator may be found who had paid the same money-rent for a consecutive period of twelve years, it is fair on every ground to determine that neither he nor his successor shall be subjected to any enhanced demand'.⁷ In such cases, he observed, 'it will be fair to assume that more would have been exacted had more been fairly demandable, and that the rent fixed is not more

¹ *Ibid.*, p. 375.

² *Ibid.*, p. 374.

³ *Ibid.*, p. 374.

⁴ Holt Mackenzie had also expressed a similar view on the right of ryots. See *Revenue Selections (1818-1820)*, p. 96.

⁵ Minute, 20 Jan., 1832, *Revenue Selections (1822-1833)*, p. 375.

⁶ *Ibid.*

⁷ *Ibid.*

than the agriculturist can easily pay under all the varieties of price and season'.¹ But in respect of all other ryots, who claimed no interest either of a proprietary or possessory nature, he declared that it would be sufficient security to make a record of the shares in kind belonging to the landholder and to the ryot respectively, and to make it possible for the latter to make his payment in kind by division of produce. He thought that this was a practice well-known in India and 'the ryot could always compel his superior to take the Government's share in the event of any demand being made upon him, which, from calamity of season, cheapness of grains, or other cause, he may be unable to afford'.²

From the foregoing discussion, it is evident that even though the Governor General was opposed to the general principle of fixing money-rents for all cultivators, and wanted to leave scope for flexibility, he was not opposed to the provision of a certain measure of security for the mass of cultivators by giving them the option to pay their rents in kind by division of produce.

In his later Minute of 26 September, 1832, the Governor General, however, expressed doubt about the desirability of allowing to tenants the option to pay rent in kind on the ground that it might involve considerable loss of revenue,³ and would be unfair to the proprietors. Thus he said:

Further consideration has induced me to doubt the practicability of the plan proposed by the . . . Board . . . for giving the tenant an option of tendering a proportion of his crop to the landlord in lieu of money rent. I still hold to the opinion that a more effectual safeguard against exaction could hardly be devised, and that it would be desirable on every account to establish a rule of the nature contemplated if it can be introduced with fairness to the class of individuals by whom the Government revenue is collected and paid; but may there not be reason to apprehend that in most cases, except of peculiarly low assessment, the tenants will almost universally prefer division of produce to a fixed rent? and if the tenants are allowed the option of paying in kind, must not the same option be given to the *malgoozar* in his transactions with Government or a new engagement on the new understanding be taken from him? In an already fairly assessed estate, there

¹ *Ibid.*

² *Ibid.*

³ Minute, 26 Sept., 1832, p. 409.

might be much reason to fear that the results of any such experiment would be a very considerable loss of revenue.¹

Lord William Bentinck, therefore, desired the 'greatest caution' to be observed even in recording the shares in kind payable by tenants to their proprietors.

RYOT-PROPRIETORS UNDER TALUQDARS AND LARGE ZAMINDARS

Since generally he was not favourably disposed towards fixing the rents of tenants, the Governor General, in his final Minute of 26th September, 1832, classified ryots into three categories. The first class he described as 'being to all intents and purposes proprietors of land' which they cultivated.² They were hereditary ryots in large zamindari or *taluqdari* estates who were connected with land and who were not different from cultivating proprietors in the *pattidari* estates except for the fact that they paid their revenue through a superior landholder instead of directly to government. Lord Bentinck cited numerous extracts from various documents³ to prove that these hereditary occupants belonged to the class of original proprietors, and possessed a right, derived by inheritance from the original occupants, to appropriate the surplus produce of the soil after meeting the government demand.⁴ We have already seen that, in such cases, government had earlier decided to make a sub-settlement with the hereditary village community. Lord Bentinck only endorsed that decision.⁵

RESIDENT-RYOTS

The second class of ryots, according to the Governor General, included persons who were originally tenants-at-will but, in course of time, had acquired a prescriptive right of occupancy at fixed

¹ *Ibid.*, p. 409. Lord Bentinck also wrote in this connection, 'Fixed rates of certain classes of soil would seem, independently of other objections, to be unjust if intended to regulate the demand between the landlord and tenant . . . all that Government should fix is their own demand . . . for revenue, while the rent which the (proprietor) shall demand from his cultivating tenant must vary according to seasons, crops, demand for particular produce, and numerous other details too minute for the Government to meddle with. There seems, indeed, no reason why the Government should regulate the wages of agricultural more than that of any other description of labour.' *Ibid.* p. 408.

² *Ibid.*, p. 396.

³ *Ibid.*, pp. 397-400.

⁴ *Ibid.*, p. 401.

⁵ *Ibid.*

rates. These ryots were called resident or *chhapparbund* ryots or by other names in different parts of the country. But their privileges and the means by which they became entitled to them depended on circumstances which varied in different cases. He, therefore, left the question of the protection of their rights 'to evidence to be adduced in each individual case'. He commented as follows on this point:

... the object of securing the old resident ryots in possession of fields which (even without asserting rights of occupancy at a fixed rent) they have cultivated for a long series of years, is of so much importance that His Lordship is disposed to recommend that in all cases in which the ryots or their ancestors may have held land from a period antecedent to the cession or conquest of the country, they should be secured in their present holdings by a distinct record of the conditions of their tenures for the term of the settlement, when they can be satisfactorily adjusted by the parties themselves; or if such mutual adjustment cannot be effected, by a pottah from the collector at moderate rents, and not liable to alteration during the term of settlement.¹

It appears that Lord William Bentinck did want security of tenure for a small class of old resident tenants, who, even without asserting their rights of occupancy at fixed rents, could be vested with such a right if they had been in occupation of their holdings for a long period. But he gave up his earlier intention to recognise the right of occupancy in the case of every cultivator who may have held his fields at a fixed money-rent for twelve consecutive years. He now limited it to persons who had occupied the land since before the cession or conquest. The actual determination of such persons was left to the discretion of the settlement officers.

However, at the last moment, before the arrangements for the conclusion of the settlements were finalised, he circumscribed even this limited right to be vested in the old resident ryots and virtually withdrew it. As the creation of occupancy rights in the case of old resident ryots might have operated 'to the prejudice of the rights of others', mainly proprietors, the settlement officers were instructed to limit the conferment of such rights only 'to those cases in which

¹ Letter from Secretary to the Governor General to the Board of Revenue, 24 Jan., 1833, para. 14, *Revenue Selections (1822-1833)*, p. 483.

such right is acknowledged (by proprietors) or can be established, whether originating before or after the cession'.¹ Instead of the criterion of the occupancy of land for a long series of years, which could be established or ascertained, the criterion now proposed was either the admission of such rights by the proprietors themselves or satisfactory proof of its existence. In either case it was difficult for the ryots to satisfy the criterion.

CONTRACT CULTIVATORS

The third class of ryots, according to the Governor General, included mere contract cultivators. In their case, he was not 'disposed to introduce any change, for, in his opinion, the system which attached to the land various permanent interests independent of any contract between the parties, though it could not without cruel injustice be destroyed, was not one desirable to establish'.² He doubted either the expediency or the equity of conferring on the ryots, who had no permanent right to, or interest in, the lands, the privilege of retaining their fields as long as they continued to pay a certain fixed rent or rate of rent.³ Consequently, he was 'strongly disposed to refrain from creating rights among the agricultural classes which had no previous existence'.⁴

FIXITY OF RENTS AND GRANTING OF PATTAS

As Lord Bentinck was opposed to the compulsory adjustment of rents between the landlord and the tenant, so also he was naturally opposed to keeping the rents unchanged during the term of settlement by granting to tenants *pattas* specifying their rents. As already mentioned, the Board of Revenue had held that fixing the entire rent payable by every ryot in a village would be 'quite impracticable' without a 'large sacrifice of rent and therefore of revenue'.⁵ Agreeing with this view, Lord Bentinck declared as his opinion that 'any

¹ Letter from Secretary to the Governor General to the Revenue Board, 21 May, 1833, *Revenue Selections (1822-1833)*, pp. 478-79.

² Minute, 26 Sept., 1832, *Revenue Selections (1822-1833)*, p. 401.

³ *Ibid.*, p. 407; '... where ... no rights have hitherto attached to the cultivators, and they have been considered as tenants-at-will, neither justice nor policy requires that Government should interfere with them and their superiors and attempt (what must be an extremely delicate and difficult operation) to fix the precise limit to which the demand of the latter on the former should be confined.' *Ibid.*, p. 408.

⁴ *Ibid.*

⁵ Minute, 20 Jan., 1832, *Ibid.*, p. 353.

arbitrary determination by the officers of Government of the sums payable as rent may be extremely mischievous', and that the government 'never intended to make a compulsory adjustment of this nature between the landlord and tenant'.¹ He furnished a new and modified interpretation of clause 2, Section 9 of Regulation VII of 1822 which, so far, had been held by all local officers and the Board of Revenue to contemplate compulsory issue of *pattas* by settlement officers after adjusting the disputes regarding rents between landlords and tenants.² He suggested that this clause 'should be understood as clearly applicable to those cases only in which there may be no question as to the amount payable, and in which the parties interested may be mutually desirous of entering into specific engagements'.³ The Governor General, therefore, instructed the Board of Revenue 'to lose no time in circulating such instructions as may be calculated to suppress' the practice of compulsory granting of *pattas* by revenue officers.⁴

Thus, the intention to define, and fix the rent of each and every field in the village, as under the *ryotwar* settlement, and to maintain it unchanged for the duration of the settlement, was abandoned for good. This ultimately strengthened the rights of the intermediary proprietors.

Lord Bentinck's classification of ryots and his general opposition to the government's undertaking to fix their rents or to maintain them during the term of settlements were a serious departure from the principles of Regulation VII of 1822. It would have been inconsistent, as Fane had shown in his Minute, to establish the right of private property in land and then to impose upon the proprietors the obligation to derive only a fixed and invariable rent. Since the government's own revenue demand on the proprietors was variable there was no justification for the government to keep the rents of cultivators invariable.⁵

¹ *Ibid.*, p. 353.

² See Board's letter cited in Governor General's Minute, 20 Jan., 1832, in *Ibid.*, p. 361; also see Letter of the Acting Collector of Agra, 6 Aug., 1831, in *Ibid.*, pp. 319-20; also see Letter of Offg. Commissioner, Agra Division, 27 Aug., 1831, *Ibid.*, p. 308, and Replies to the queries of the Governor General by the Commissioner of Agra, 7 Sept., 1831, *Ibid.*, pp. 345-46.

³ Minute, 20 Jan., 1832, *Ibid.*, p. 353.

⁴ *Ibid.*, also see p. 361.

⁵ Bird had suggested a solution to this problem by proposing that the cultivator's payments should remain fixed only for such periods for which the revenue demand on the proprietors was fixed, viz., for the duration of the settlement. At the end of the settlement period, when government raised its own revenue demand, it could also allow the rents of the cultivators to be raised but to be fixed for another term of the settlement.

There was, however, a more fundamental reason for regarding the fixing of rents as inconsistent. This was connected with the nature of the right of property which had been vested in the proprietors of the soil.¹ Fane had pointed out this inherent inconsistency most explicitly. If property in land was to be established, it would have been unjust to burden it with the obligation to charge fixed and invariable rents. It would have meant perpetual conflicts between government officers and proprietors, on the one hand, and the proprietors and the cultivators, on the other.

Again, if maximum revenue was to be raised, it could be more easily done through the instrumentality of intermediary proprietors than by fixing the rents of land permanently as was done under the *ryotwari* system. The landlords could extract the entire economic rent from the cultivator more easily than the government ever could by means of elaborate calculations of average produce and profits of husbandry from each field.

Lord Bentinck frankly acknowledged his preference for the intermediary proprietors in the following words:

Much has been said of late as to the inutility of the class of persons who are rent-owners in contradistinction to the cultivating community, but where, as in India, there is so little general intelligence and foresight, and so much poverty, were large classes of men thrown entirely on their own resources, and removed from all connection with their superiors, to whom they had been accustomed to look up for aid, the consequences might be very prejudicial to their own interests as well as those of Government.²

DISTRIBUTION OF BENEFITS ARISING FROM THE LIMITATION OF GOVERNMENT DEMAND

The question as to which class must be the beneficiary of the limitation of the government's land revenue demand was, as the Bengal Government had put it, the most important 'in the whole

¹ We find Lord William Bentinck, writing as follows to the Court of Directors on 26 Sept., 1832, '... the estates had been transferred (to the zemindars) on the understanding that the rents were not to suffer diminution by the act of Legislature, and any attempt now to interfere between the landlord and tenant would be productive of infinite confusion and would infallibly tend to shake the confidence which the people had hitherto reposed in the Government.' cited in C. D. Field, *op. cit.*, p. 675.

² *Ibid.*, p. 407.

circle of political science',¹ in its relation to private interests and to the public weal. The question had arisen mainly because the government had desired to look far into the future and assess the consequences of leaving a large fund of unearned rental income in the hands of the agricultural community and its impact on the rights of the various classes. They had refrained from making the intermediary proprietors the only beneficiaries because they feared that they would squander it in unproductive consumption. They also did not like the possibility of a large unearned rental income being diffused amongst a vast multitude of needy cultivators, and being hardly of any use from the productive point of view. Holt Mackenzie had proposed a maximum possible check on the emergence of such unearned rental incomes during the term of the settlement by fixing the rents of all cultivators and maintaining them for its entire duration. But to the extent that such rental incomes could not be prevented from arising, he had desired the government to siphon it away by taxation and vest it in the class of persons who could be held responsible for the civil government of the country.

In the context of Lord Bentinck's simplified view of land tenures and proprietary rights, the need for any serious deliberation on this question entirely disappeared. Lord Bentinck explicitly said that 'in all cases where the right of the superior may not rest upon a basis unquestionably more solid than that of the cultivators themselves', it was 'unquestionably competent for the Government to concede to the actual cultivators much of the profit arising out of the limitation of Government demand'.² But where no rights had attached to the cultivators, and they were considered merely as tenants-at-will (we have seen that the Board had declared them to be so in all zamindari estates), neither justice nor policy required that government should interfere with them and their superiors and attempt what was bound to be an extremely delicate and difficult operation, viz., to fix the precise limit within which the demand of the latter on the former should be confined.³

Thus, in all *pattidari* estates, where the cultivators had the right of paying the government revenue directly through their own representatives without the intervention of any middlemen (intermediary proprietors), the hereditary village community was to be

¹ Resolution of 1 Aug., 1822, *Revenue Selections (1822-1833)*, p. 16; also see Minute by Governor General, 26 Sept., 1832, *Ibid.*, p. 408.

² Minute, 26 Sept., 1832, *Ibid.*, p. 408.

³ *Ibid.*, p. 408.

treated as the proprietor who would be the beneficiary of the limitation of the government demand.¹ But in all other cases, the beneficiaries were to be the intermediary proprietors. In the language of the classical Political Economy, the benefits from the limitation of government demand were to accrue, in the former case, as the surplus profits of cultivation remaining after payment of government revenue, and, in the latter case, as surplus rents realised from the tenants as a residue after meeting the government demand.

Thus, it would be evident that, in both cases, once the government demand was fixed for a long period, the value of landed property was likely to rise. In zamindari estates, the rise in land values could be explained by the widening of the margin between the rents realised from the tenants and the amount paid to the government. In *pattidari* estates, land values could rise if the cultivation expanded on wasteland, improvement was effected in the means of irrigation or the standards of husbandry, and more valuable crops were raised. But there was an essential difference in the means by which the two different classes could reap these benefits. The cultivating proprietors could secure these benefits only if they invested more capital in cultivation or put in more labour and effort in expanding and improving their farm operations. But the intermediary proprietors could secure these benefits even without extra investment or effort. With the extension of cultivation into wastelands through the efforts of their tenants, and with the cultivation of more valuable crops on their estates, they could raise the rents and secure all the benefits flowing from the limitation of government revenue.

This divergence in the nature of rights of the two proprietary classes placed one of them definitely at a disadvantage, and the other in a relatively superior position. Their unequal advantages and their impact on their relative economic situation could be ruinous. It is not within the scope of our study to deal with this aspect of the agrarian life in the Ceded and Conquered Provinces, which manifested itself in a serious manner in later years.

PRINCIPLES OF REVENUE SETTLEMENTS

The Governor General desired the Board of Revenue to arrange the details of the revenue settlements in accordance with the principles which he finally laid down. He desired instructions to be

¹ *Ibid.*, p. 401.

issued by the Board of Revenue to all local officers to carry out the settlements according to the following general principles:

- (1) The government assessment to be fixed on the basis of the computation in the aggregate of the cultivated area of each estate, and a general acquaintance with the advantages possessed by each village, as regards fertility, position and population, and any other matters which required to be taken into consideration when regulating the government demand.¹
- (2) The apportionment, in detail, of the assessment so fixed, to be left to the village communities or the zamindars, and the preparation of the records of lands in detail (fieldwise registers showing the extent and the amount of revenue or rent due from each field) to be exacted from the village accountants . . .²
- (3) The exercise of judicial powers by settlement officers to be limited to cases in which the cause of action might have arisen within the period of one year, and also to be limited to matters affecting the settlement, general questions of property being left to the courts.³
- (4) Existing institutions to be maintained, and the prevailing system of village management not to be interfered with except for especial reasons.⁴
- (5) All parties to be secured in the enjoyment of whatever rights and privileges they might be in possession of, or establish a claim to, subject to the limitation above noted, but no new rights to be created, and all cultivators who held as mere tenants-at-will to be left to make their own bargains as heretofore.⁵

ADMINISTRATIVE ARRANGEMENTS FOR REVENUE SETTLEMENTS

Lord William Bentinck also made numerous suggestions regarding the administrative and practical details connected with the settle-

¹ Minute, 26 Sept., 1832, *Ibid.*, pp. 415-16.

² *Ibid.*, p. 416.

³ *Ibid.*, This restriction, however, was not applied to claims already entertained and actually pending, or to those which might have been, when preferred, postponed to the period of the settlement, the parties having already been told that their claims would then be determined by the collector.

⁴ *Ibid.*

⁵ *Ibid.*

ments,¹ which are not relevant for our purpose. 'With a view to . . . securing despatch, economy and uniformity of proceeding among the officers',² he proposed an early meeting to be held in order to discuss the future arrangements for the conduct of revenue settlement. This meeting was held on 21, 22 and 23 January, 1833,³ at Allahabad, and Lord William Bentinck himself presided over it.⁴ Nothing transpired at this meeting to justify any material alteration in the principles and arrangements discussed in the Governor General's Minute of 26 September, 1832. Only some minor modifications and additions were made, and explanations provided, which were forwarded to the government and the Board of Revenue on 24 January, 1833.⁵ The Board, in obedience to these orders and the Minutes of Lord Bentinck adopted measures for carrying out the arrangements and instructed the revenue commissioners and other local officers accordingly.⁶

On the basis of these documents, we have discussed below some important aspects of the mode of conducting revenue settlement which had a bearing on the question of the relative rights of the various classes in the agricultural community.

In conformity with the general principles and plans, it was resolved to give up the earlier method of assessing government revenue by computing the average produce, costs and profits of cultivation on each field and thus to derive the aggregate revenue for an estate on the basis of details. No produce-tables or investigations for the purpose of fixing rates were now required.⁷ Instead, the collectors were now required to assess an aggregate sum on an estate on the basis of materials mentioned under the first principle.⁸ The amount of assessment was now left to the 'sound pragmatic judgement' of the revenue officers as regards the actual produce and the productivity of an estate.

As regards the distribution of revenue amongst individual fields and ryots, in zamindari estates it was left to the zamindars and

¹ *Ibid.*, pp. 410-15.

² *Ibid.*, pp. 416-17.

³ Letter from Secretary to the Governor General to the Secretary of Government, 24 Jan., 1833, *Ibid.*, p. 480.

⁴ Letter from Secretary to the Governor General to the Board of Revenue, 21 May, 1833, *Ibid.*, p. 478.

⁵ Letter, 24 Jan., 1833, *Ibid.*, pp. 480-85.

⁶ Letter from Offg. Secretary to the Board of Revenue to the Commissioners etc., 17 Sept., 1833, *Ibid.*, pp. 487-98.

⁷ *Revenue Selections (1822-1833)*, p. 491.

⁸ Letter from Secretary to Governor General to the Board of Revenue, 24 Jan., 1833, in *Revenue Selections (1822-1833)*, p. 481; see also p. 491.

in *pattidari* estates, to the village communities. In zamindari villages, the proprietors were required to furnish a copy of their rent-rolls, i.e., a statement of the amount which their tenants had agreed to pay them.¹ It was realised that full reliance could never be placed on these documents, and yet the government felt that it was not 'too much to demand' from them such a statement after the government *jama* had been fixed. Similarly, in *pattidari* villages, a concise record of the apportionment of the aggregate *jama*, in the case of each sharer was to be obtained.² Details of the distribution of the actual *jama* assessed were to be shown therein. Any disputes regarding distribution, not settled by the village communities themselves, were to be left for subsequent investigation.

Revenue engagements in *pattidari* estates were to be taken from village headmen as representatives of their brethren³ who were to be provided a small allowance (5 per cent on the government *jama*), for their trouble of collection. This amount was to be added to the government demand and was to be collected along with the State revenue.

The responsibility for default in payment of revenue rested both on each sharer as well as the entire village community. The government reserved the power of holding the entire village community responsible for such default and putting the whole estate to sale in auction for arrears of revenue, thus abrogating the proprietary rights of all sharers in the village community.⁴

As regards the benefits left to the proprietors, the government assessment was to be fixed for thirty years. The demand for revenue was to be only two-thirds of the 'gross rentals' assessed on the zamindari estates, thirty three and one third per cent was to be left to the zamindars as compensation for the risk, cost of collection and as provision for capital accumulation required for expansion and improvement of cultivation. Where a *mehal* (unit of revenue assessment) happened to be owned by more than one individual, the share of each zamindar was to be specified and recorded separately. Since the rents of tenants were neither to be fixed nor to be maintained for the term of the settlement, the zamindars were to enjoy all the benefits arising from expansion of cultivation on

¹ *Revenue Selections (1822-1833)*, p. 482; also see pp. 492-93.

² *Ibid.*, p. 481; also see p. 491.

³ *Ibid.*, p. 494.

⁴ See Bird's Minute, 25 Sept., 1832, *Revenue Selections (1822-1833)*, pp. 441-50.

wastelands (which was also vested in them as their property) and from its improvement due to many factors.

In *pattidari* estates, since the method of calculating the 'net rent' of every field was given up, the assessment of revenue was to be based on the extent of cultivated area and the proportion of wasteland available for the cultivators. The latter was relevant for assessing the probable extension of cultivation in future and for making allowance for it in the assessment of revenue. The probable increase in total produce and in its value was anticipated for several years to come and the revenue was assessed by making allowance for the government's share of anticipated increase. The revenue thus assessed, therefore, could even be higher than was warranted by the actual produce of any estate at the time of the settlement.

A method was devised of computing in *pattidari* estates assumed rent-rates per acre for different types of land for comparison with the actual rent-rates prevalent in the vicinity for similar soils. This was generally mere guess work.

Two-thirds of the gross rentals thus estimated was to be taken as the government revenue and one-third was to be left to be enjoyed by the village zamindars by way of deduction from the share of revenue payable by each coparcener of the village community. The wasteland was also left as the property of the village community to be reclaimed and utilised according to its own customs and usages.

Thus, the benefit enjoyed by the village community was more in the shape of a residual share in so far as each sharer paid about one-third less than the legitimate revenue due to government. Besides, all the benefits of expansion and improvement of cultivation remained with each sharer in accordance with the area and quality of land in his possession and the resources he had for undertaking the extension and improvement of cultivation.

An important aspect of these arrangements was the precedence given to the assessment of revenue over the judicial investigation into the rights and claims of various persons. In fact, it was decided that no case should be tried by revenue officers in which the cause of action might have arisen more than one year previous to the complaint.¹ Even then only such cases were to be taken up as were related to the extent of the interest of parties in possession,

¹ *Revenue Selections (1822-1833)*, pp. 496-97.

so that the decision on them was necessary from the point of view of the allotment of government assessment. Even in such cases, the Governor General decided to postpone investigations pending the completion of assessment. All old and extraneous claims were to be left to the decision of the courts.¹ Similarly, all claims of old ryots in respect of holding particular lands at particular rates were also to be postponed, until after the assessment was made.² According to the Governor General, the primary object was to determine the amount of the government demand and to remove the sense of uncertainty, which was operating as a disincentive to the improvement of moderately assessed estates and was causing a rapid and alarming deterioration in over-assessed estates.³ It was, therefore, expected that, relieved of their judicial functions, the revenue officers would be able to complete the revenue settlements most expeditiously.

In order to give legislative effect to the various modifications made in the Regulation VII of 1822, Regulation IX of 1833 was passed.⁴ This law repealed such provisions of Regulation VII of 1822 as were related to the mode of determining the *jama* to be assessed on a *mahal* or to the investigation of claims to property and possession simultaneously with the determination of the government demand.⁵

Thus, within a brief period of just a little more than a decade, the radical phase of British land and revenue policy in the Ceded and Conquered Provinces came to an end. It was impossible to practise the new principles of revenue settlement, derived from the classical theory of rent, because of the hard realities which could not be overcome. It was impossible to carry the radical principles the logical conclusion of which would have been the 'nationalisation of land' in these Provinces and the abolition of all private property in the rent of land. Inevitably, the land policy which emerged after the promulgation of the Regulation IX of 1833, combined the features of both the zamindari and the *ryotwari* modes of revenue settlement. In the result, the land system of the Ceded and Conquered Provinces acquired its own name as the *mahalwari* or the *mouzahwar* land system.

¹ *Ibid.*, p. 482.

² *Ibid.*, p. 483.

³ *Ibid.*, p. 482.

⁴ John Marshman, *Guide to the Revenue Regulations of the Presidencies of Bengal and Agra*, Vols. I and II.

⁵ *Ibid.*, Vol. I, pp. 149 and 462.

The Final Pattern of Agrarian Relations

FROM THE foregoing account, it is possible to give an account of the ultimate pattern of agrarian relations sought to be established under the modified plan of revenue settlements.

In the hierarchy of rights of persons and classes, 'owning, occupying, managing, or cultivating the land, or gathering or disposing of its produce, or collecting, or appropriating the rent or revenue payable on account of the land, or the produce of land,'¹ the first place was occupied by the British Government which claimed the major share of the agricultural produce as its own revenue. Conceptually, it was two-thirds of the entire 'gross rent' of the country, a term which meant 'the proportion of the produce or the value of the produce remaining after defraying the wages of labour and profits of stock'.² The remaining one-third of this gross rent was to be left to the proprietors 'as a remunerating return', as 'capital for improvement'³ and 'to cover all expenses and risks of collection'.⁴ In practice, however, the government revenue was levied 'on the rent' in cases where there were acknowledged landowners between the government and the actual cultivators, and 'directly on the produce of the soil after deducting wages of labour and profits of stock' in cases where proprietors were themselves cultivators of the soil. But the revenue was assessed in the latter case, on the basis of rough guesswork, without making any elaborate calculations of the costs of cultivation. In fact, the settlement officers were required to formulate certain assumed rates of rent for the lands of cultivating proprietors by means of comparative reference to rents paid on similar soils in the vicinity in zamindari estates. Thus,

¹ Minute of the Governor General, 26 Sept., 1832, *Revenue Selections* (1822-1833), p. 390.

² *Ibid.*, p. 389; also see Minute of the Governor General, 20 Jan., 1832, *Ibid.*, p. 370.

³ *Ibid.*

⁴ *Ibid.*

while the theory of rent was retained to describe the nature of government assessment and to determine its magnitude, in practice the theory was rejected by giving up elaborate calculations of costs and profits of husbandry.¹ This was possible through the assumption of the authorities that the rental assets (viz., rents actually paid to zamindars or hypothetically assumed to be paid by village communities to the government) could be identified with economic rent in the strict sense.

The unit of revenue assessment was a *mahal*, consisting of a whole village, a group of villages or even a part of a big village. The term *mahal* signified no precise territorial limits but was merely the name of a unit of revenue assessment.

An important change effected in the mode of revenue assessment was to tax the land according to its productive capacity and not according to the actual produce grown on it. If the government demand was assessed in proportion to the value of the product grown, in zamindari estates, the landowners would have been naturally inclined to prevent the cultivation of valuable cash crops a couple of years before in anticipation of the settlement. In *pattidari* estates, the cultivating proprietors would have been directly discouraged from growing such crops which would have meant heavier revenue demand at the time of the settlement. In either case, government revenue would have been less. And another even more important consideration was that such a mode of assessment would have discouraged the cultivation of raw material crops like cotton, sugar-cane, tobacco, etc. The Court of Directors explicitly stated this consideration in one of their despatches in the following words.²

With regard to the practice which exists of forming the assessments according to the value of the crops produced, and not according to the value or capabilities of the land... is... a practice which... must act as a check on industry and discourage cultivation. We are desirous of drawing your particular attention to this subject in especial connexion with the cultivation of cotton, sugar, coffee and other staple commodities suited to the home market.

¹ Stokes, *op. cit.*, p. 137.

² Letter to the Bengal Government, 12 April, 1837.

It was also pointed out that such a mode of assessment would 'open up the prospects of Europeans investing their capital in the cultivation of staple articles or products in India'.¹ It was said that 'European enterprise and European capital are ever ready to secure the advantages which changes in State policy, commercial or financial, may seem to hold out; and this is not our desire to check'.² Thus, the Court of Directors came to the conclusion that 'it is the productive power of the land and not its actual produce that should be taken as a guide in revenue assessments. By this mode, the best description of arrangement is given to the cultivator to extend cultivation and raise crops immediately beneficial to himself, and such a system . . . would not ultimately be found detrimental to the interests of the State'.³

The period for which the revenue settlements were to be made was fixed as thirty years, on the expiry of which, the government was empowered to revise the assessments.

The entire land of the country, including all forms of property, was declared as hypothecated to the government for the payment of its revenue. The government retained the power to acquire, auction or dispose of any estate for default in payment of revenue in any manner it liked.

Next to the State, came the proprietors, who consisted of two classes, viz., zamindars and *pattidars* (village zamindars). Both these classes of proprietors were vested with a heritable and transferable right to all the land and other natural resources on their estates including the wastelands and the village-sites. When a unit of assessment was owned by more than one zamindar, a share was assigned to each person and the proportionate revenue due on such share was specified. In the case of *pattidari* villages, the shares of land belonging to different co-parceners of the village community and the revenue payable by each was made an integral part of the record of the settlement, even though it was left to be adjusted by the village community mutually without interference by government officers. The respective rights of different sharers in the other natural resources of the village, like the wastelands, pastures, fisheries, forests, etc., were left to be regulated by custom and usage and were recorded in the settlement papers. While, in the case of

¹ *Ibid.*

² *Ibid.*

³ *Ibid.*

zamindars, each person paid his own revenue, in the case of the village community, a single village headman acting on behalf of one village, or several of them for each division and sub-division of a village, became responsible for the collection and payment of revenue.

Subject to the liability of paying the government revenue, the proprietors enjoyed full right to any rent or profits on their estates. This right was both heritable and transferable. At the time of the settlement, the zamindars' right consisted of receiving rent from cultivators and that of the *pattidars* of receiving the profits derived from the cultivation of their land. Potentially, the zamindars possessed the right to evict their tenants, (except those old resident tenants who could establish a right of occupancy), plant new tenants, resume lands for their self-cultivation by means of hired labourers, plant orchards or groves in their estates, etc. In brief, they were empowered to use and manage the estate in any manner they liked and to strike their own bargains with tenants for its cultivation or improvement.

Similarly, the *pattidars*, at the time of the settlement, enjoyed a heritable and transferable tenure in the lands under their cultivating possession. But potentially, they had the right to improve them, to invest capital in them, to reclaim the wasteland in their estates, and to enjoy all the natural produce of the estates in conformity with custom and usage. They also enjoyed the right to alienate their rights by sale, gift or mortgage. They could as well, like the zamindars, pledge their lands as security or sell them to raise money in order to meet their monetary obligations in respect of payment of revenue or any other contingency.

Next to the proprietors came the tenants. Some of them, who made a claim and established it, enjoyed the right of occupancy of their lands at fixed rates of rent.¹ But such tenants formed only a small fraction of the mass of ryots. The bulk of them enjoyed no rights except such as were conferred on them by their contract with the landlords.² They could cultivate the lands occupied by them from year to year on such terms as may be determined between them and the landlords. They could be evicted, subjected to enhanced

¹ Actually, very few cultivators could claim such a right since they hardly understood the distinction between a tenant vested with a right of occupancy and a tenant-at-will; George Campbell, *op. cit.*, p. 160.

² The problem was unimportant in *pattidari* villages and remained so until *pattidari* villages were gradually converted into zamindari villages.

rents, asked to vacate the lands at any time for any purpose, and whenever required by the landlords.

Below these three strata were the village artisans and village servants in the village community in whose rights and privileges no changes were made by any direct legislative interference.¹ But, since there was a change in the proprietary rights and rights of occupancy, naturally their rights were bound to be affected in the course of time.

The impact of the new framework of agrarian relations on the agricultural community can easily be deduced by looking into the nature of the new relationships established. The new land system was devised to ensure for the British Government a substantial proportion of the total gross rent of the country. By keeping the revenue settlements temporary, and subject to revision after a period of thirty years, the government also reserved the right to participate in the increase of rents arising from any expansion or improvement in the quantity and value of produce or in the productivity of land. During the interim period between the settlements, the two classes of proprietors were given the right to enjoy one-third share of the gross rents left to them at the time of the settlement, and all the benefits which might arise from expansion or improvement of cultivation. In zamindari estates, all these benefits were inevitably to accrue to the intermediary proprietors, whose rents would naturally increase with any improvement in the quantity or value of produce or in the productivity of land. In *pattidari* villages, the benefits would go directly to the cultivating proprietors who could enjoy all the increased profits of cultivation subject to the payment of a stipulated amount as government revenue.

Consequently, the two classes of proprietors could acquire only such part of the economic surplus as was deliberately left to them by government at the time of making the settlement and the surplus that arose from the improvements in agricultural production and the rise in productivity in between the revenue settlements. The magnitude of such surplus naturally depended on the severity or lightness of government assessment. Since the proportion of the surplus taken by government was large, what was left with the proprietors could not be very large.

¹ Except for the village *chowkidar* who was now made the servant of the government and assigned a small allowance (levied on the village along with government revenue) for his services.

IMPLICATIONS FOR THE GROWTH AND DEVELOPMENT OF AGRICULTURE

Further, it will be evident that under such a system, growth of agriculture could by no means be very rapid. The ability of the proprietors to make investment of capital in the improvement of their estates, to settle tenants on wastelands, to popularise the cultivation of new and more valuable crops, or to make advances to ryots depended on the magnitude of the economic surplus available to them. Since the share left to them was relatively small, agriculture could grow only slowly and at best at the same rate as the growth of population, since only the increase in the demand for more food and in the number of tenants could necessitate cultivation of more wastelands.

Investment of capital by proprietors in the improvement of their estates was possible only if there was sufficient demand for agricultural produce which enabled the tenant cultivators to bring under the plough increasing areas of inferior land. For this to happen, it was necessary for the non-agricultural sectors of the economy to grow fast enough to generate an increasing demand for more food and new raw materials. In the absence of such favourable circumstances, growth of agriculture was bound to remain slow.

IMPLICATIONS FOR FURTHER DEVELOPMENT OF AGRARIAN RELATIONS

However, even with slow development of agriculture, the incomes of the intermediary proprietors were bound to increase steadily. Their rents were bound to rise with every extension of cultivation to inferior soils since the margin of cultivation was bound to fall. Thus the proprietors could extract higher rents from their tenants.

But such a situation was not conducive to the stability of relations amongst the various classes of proprietors. In later years, it naturally attracted to the Provinces merchants and money-lenders—persons with liquid money capital—who acquired proprietary rights in land. In the absence of alternative avenues for investment, and with high rates of interest in rural areas, there was a flow of capital into the villages, which caused vital socio-economic changes in the agricultural community. The ancient classes of zamindars were dispossessed by the moneyed speculators and a large number of *pattidari* estates were converted into zamindari estates through the sale of the rights

of cultivating proprietors. Gradually, land tenure in most parts of the Provinces assumed only the zamindari pattern.

All these developments manifested themselves in the period after 1833. A full analysis of all these changes lies beyond the scope of the present work. But all these changes were implicit in the framework of rights established under Regulation IX of 1833. If the Regulation VII of 1822 had been fully implemented, the course of developments might have been very different.

IMPLICATIONS FOR THE DISINTEGRATION OF THE VILLAGE COMMUNITIES

The new framework of rights implied the disintegration of the village communities as well. In zamindari estates, the village community was soon bound to lose its internal cohesion and community of interest and action, since the village zamindars were reduced to the status of mere tenants-at-will, who had no authority, since they had no right to land or its produce or to participate in civil and criminal administration of the villages. In *pattidari* estates too, since each village zamindar was given the right to engage directly with the government, if he so desired, the corporate character of the village community was soon bound to disappear. The authority of the village headmen, as compared to pre-British times, was considerably weakened under the new regulations. But before the process of disintegration of the village community could proceed very far, the conversion of most *pattidari* estates into zamindari tenure created the conditions for their disappearance as 'self-reliant' and 'independent' 'little republics'. The authority of the intermediary proprietors within the village soon disrupted the internal cohesion of the village community.

Glossary

- Abadi*: Inhabited part of a village
Amin: Surveyor
Asali: Village with a regular habitation
Assal Jama: Land rent
Bati: Division of crops
Batai: Crop-sharing
Bazar: Market place
Bohora: Money-lender
Chamar: Depressed caste
Dakhili: Village without a resident population in which the land is tacked on to that of a neighbouring village and cultivated by its residents
Dehee Assame: Resident ryot
Elaka: Jurisdiction
Gunj: Market place
Hakime Hissah: Government share
Jagirdar: Revenue-assignee
Jama: Assessment
Karkeen: Accountant
Ketwar: Field-wise
Khaznadar: Treasurer
Kumehras: Labourers
Mahal: Unit of revenue assessment
Mahajans: Money-lenders-cum-traders
Malguzar: Revenue engager
Mouzah: Village
Muquaddam: Village headman
Nankar: Perquisites of management
Nullahs: Water courses
Pahi assamee: Non-resident ryot
Pan: Betel leaf
Pargana: Group of villages
Pattas: Lease deeds
Pattidars: Village zamindars
Roboolarh-oo-malik: The sovereign
Ryotwar: Ryot-wise
Ryot: Cultivator
Sadar malguzar: A direct engager with the government for the collection and payment of revenue

Sanad: An acknowledgement and documentary proof of rights conferred upon by the government

Sayer: Miscellaneous

Wirani: Village uninhabited and uncultivated but recognised as a distinct village

Zabat: Schedule of rates

Zamindaries: Estates

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Foreign and Political Department, Secret Proceedings, 1799-1806. These Proceedings contain a full account of the economic and political circumstances that led to the cession of the Ceded Provinces by the Nawab Vazir of Oudh to the East India Company and resulted in war with Daulat Rao Sindhia, culminating in the conquest of the Conquered Provinces. The state of revenue administration in these territories on the eve of British occupation and the very first instructions given to British officers for the settlement of revenue are also discussed in these proceedings. The accounts given by the British officers on their assuming charge of their respective districts contain abundant and valuable material. Important among these are the proceedings of 12th June and 24th June, 1802, which have been referred to in the text as (*Secret Proceedings*).

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